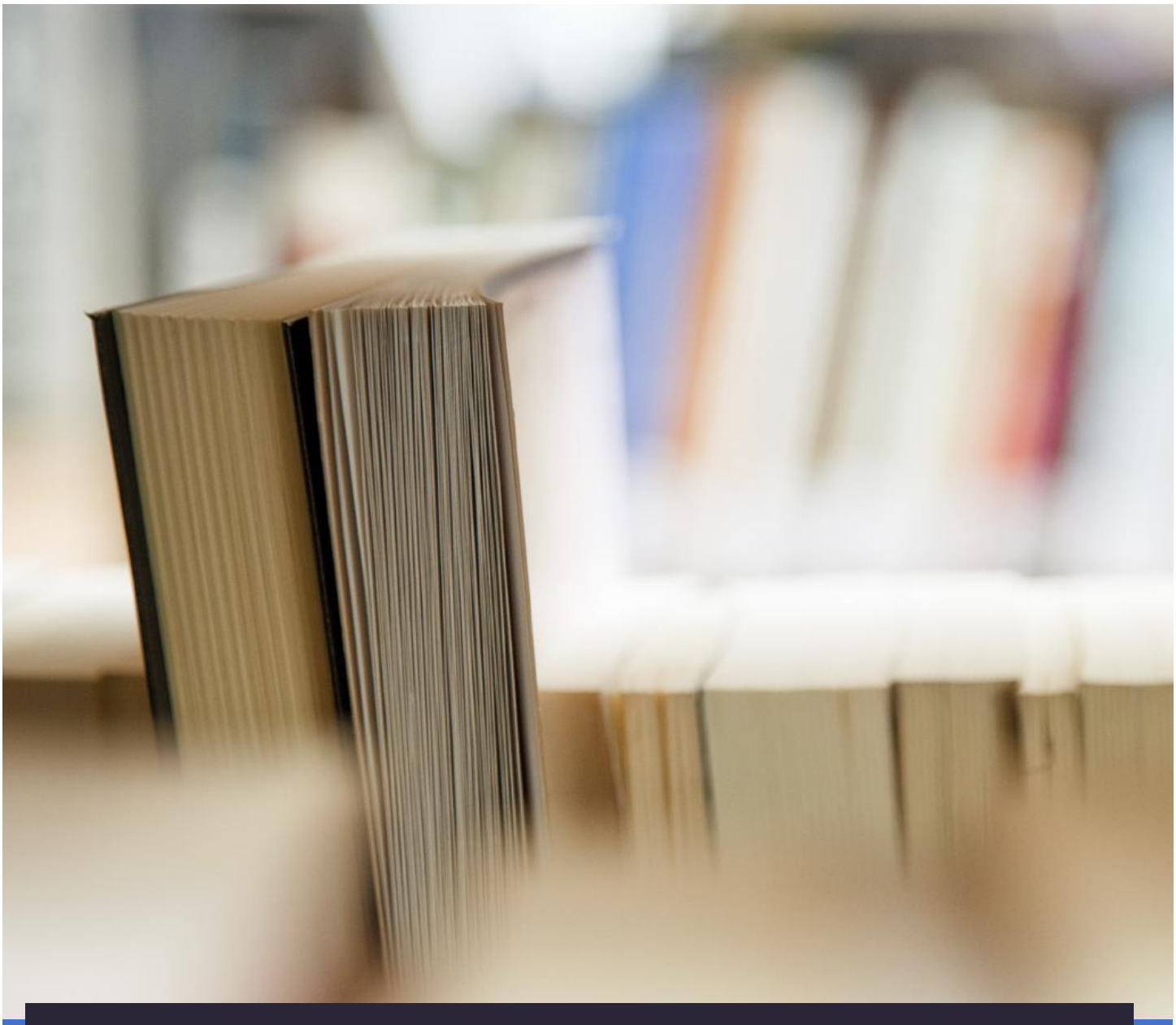

New Jersey Department of Children and Families

Office of Policy and Regulatory Development
Department of Children and Families Regulations

N.J.A.C. §3A

Revised: 9/3/19

TABLE OF CONTENTS

TABLE OF CONTENTS i
Title 3A, Chapter 1 -- Organization of the Department of Children and Families 29
§ 3A:1-1.1 Mission of the Department 30
§ 3A:1-1.2 Description of the Department 31
§ 3A:1-1.3 Communication with the Department 32
Title 3A, Chapter 2 -- Rulemaking Procedures 33
§ 3A:2-1.1 Purpose 34
§ 3A:2-1.2 Scope 35
§ 3A:2-1.3 Definitions 36
§ 3A:2-2.1 Petition for rulemaking procedures 37
§ 3A:2-3.1 Methods of publicizing a rule proposal 38
§ 3A:2-3.2 Requests for advanced notice 39
§ 3A:2-4.1 Requests for extension of the comment period 40
§ 3A:2-5.1 Public hearings procedures 41
§ 3A:2-6.1 Rules of practice posted 42
Title 3A, Chapter 3 -- Client Information 43
§ 3A:3-1.1 Purpose 44
§ 3A:3-1.2 Scope 45
§ 3A:3-1.3 Definitions 46
§ 3A:3-2.1 Protective service information 47
§ 3A:3-2.2 Child welfare information 48
§ 3A:3-2.3 Third-party information 49
§ 3A:3-2.4 Provision of information to minor clients 50
§ 3A:3-2.5 Provision of information to adult adoptees 51
§ 3A:3-2.6 Disclosure within the Division, the Department, the Department of Law and Public Safety, Division of Law, and the court 52
§ 3A:3-2.7 Disclosure of information to other government entities 53
§ 3A:3-2.8 Requests for information 54
§ 3A:3-3.1 Authority for disclosure of information 55
§ 3A:3-3.2 Who may disclose information to the media or a member of the public about a child fatality or near fatality 56
§ 3A:3-3.3 Procedures for the request and provision of information related to a fatality or near fatality 57
§ 3A:3-3.4 Information that shall not be disclosed to the media or a member of the public about a child fatality or near fatality 58

§ 3A:3-3.5 Information that shall be disclosed to the media or a member of the public during the child protection investigation 59
§ 3A:3-3.6 Information that shall be disclosed about a child fatality or near fatality not caused by abuse or neglect 61
§ 3A:3-3.7 Information that shall be disclosed about a child fatality or near fatality that was the result of abuse or neglect 62
§ 3A:3-3.8 Pertinence of information subject to release 63
§ 3A:3-3.9 Ability to seek court relief if denied information about a child fatality or near fatality 64
§ 3A:3-4.1 (Reserved) 65
§ 3A:3-4.2 (Reserved) 65
§ 3A:3-4.3 (Reserved) 65
§ 3A:3-4.4 (Reserved) 65
§ 3A:3-4.5 (Reserved) 65
§ 3A:3-4.6 (Reserved) 65
§ 3A:3-4.7 (Reserved) 65
§ 3A:3-5.1 (Reserved) 65
§ 3A:3-5.2 (Reserved) 65
§ 3A:3-5.3 (Reserved) 65
Title 3A, Chapter 4 -- Department of Children and Families Child Fatality and Near Fatality Review Board 66
§ 3A:4-1.1 Purpose 67
§ 3A:4-1.2 Scope 68
§ 3A:4-1.3 Definitions 69
§ 3A:4-2.1 Purpose of the Board 70
§ 3A:4-2.2 Composition and terms 72
§ 3A:4-2.3 Provision of staff and information to the Board 73
§ 3A:4-2.4 Division case-related material 74
§ 3A:4-2.5 Meetings 75
§ 3A:4-2.6 Files 76
§ 3A:4-3.1 Types of cases receiving full review 77
§ 3A:4-3.2 Requirements for full reviews 78
§ 3A:4-3.3 Local or regional community-based teams 79
§ 3A:4-4.1 Powers of the Board 80
§ 3A:4-4.2 Immunity 81
§ 3A:4-5.1 Annual report 82
§ 3A:4-5.2 Content of the annual report 83
Title 3A, Chapter 5 -- Dispute Resolution 84

§ 3A:5-1.1 Purpose 85
§ 3A:5-1.2 Scope 86
§ 3A:5-1.3 Definitions 87
§ 3A:5-1.4 Construction 90
§ 3A:5-1.5 Computation of time 91
§ 3A:5-2.1 Notice of Division action to a service provider 92
§ 3A:5-2.2 Notice of Division action to a parent 93
§ 3A:5-2.3 Notice of substantiated findings 95
§ 3A:5-2.4 Preliminary efforts 96
§ 3A:5-2.5 Requests for dispositional reviews and administrative hearings 97
§ 3A:5-2.6 Eligibility for continued service and status 98
§ 3A:5-2.7 Final agency decision 99
§ 3A:5-2.8 Appeal of final agency decision 100
§ 3A:5-2.9 Accessibility of records 101
§ 3A:5-3.1 When to hold a dispositional review 102
§ 3A:5-3.2 Procedures related to dispositional reviews 103
§ 3A:5-4.1 General provisions 105
§ 3A:5-4.2 Motion for Summary Disposition 106
§ 3A:5-4.3 Transmittal to OAL 107
§ 3A:5-4.4 Withdrawal of administrative hearing request 108
Title 3A, Chapter 6 through 9 (Reserved) 109
Title 3A, Chapter 10 -- Child Protection Investigations 110
§ 3A:10-1.1 Purpose and objectives 111
§ 3A:10-1.2 Scope 112
§ 3A:10-1.3 Definitions 113
§ 3A:10-1.4 General policy 117
§ 3A:10-2.1 When an investigation is required 118
§ 3A:10-2.2 Allegations of abuse or neglect ..... **Error! Bookmark not defined.**
§ 3A:10-2.3 Time frames for investigation 119
§ 3A:10-2.4 Evidence needed to support a finding 120
§ 3A:10-2.5 (Reserved) 121
§ 3A:10-2.6 (Reserved) 121
§ 3A:10-2.7 (Reserved) 121
§ 3A:10-2.8 (Reserved) 121
§ 3A:10-2.9 (Reserved) 121

§ 3A:10-2.10 (Reserved) 121
§ 3A:10-3.1 Requirements for an investigation 122
§ 3A:10-3.2 Safety assessment and risk assessment for local offices 125
§ 3A:10-3.3 Actions permitted in performing investigations 126
§ 3A:10-3.4 (Reserved) 127
§ 3A:10-3.5 (Reserved) 127
§ 3A:10-3.6 (Reserved) 127
§ 3A:10-4.1 Requirements for an IAIU investigation 128
§ 3A:10-4.2 Safety assessment for IAIU cases 130
§ 3A:10-4.3 Actions permitted in performing IAIU investigations 131
§ 3A:10-5.1 Referral of cases to a prosecutor 132
§ 3A:10-5.2 Department recommendations to prosecutors 134
§ 3A:10-5.3 Response by prosecutors 135
§ 3A:10-5.4 Law enforcement assistance 136
§ 3A:10-5.5 Coordination of a child protection investigation 137
§ 3A:10-5.6 Medical evaluation and treatment 138
§ 3A:10-6.1 Services on an emergency basis 139
§ 3A:10-6.2 Emergency placement process 140
§ 3A:10-6.3 Information provided to parent, caregiver, and relative 141
§ 3A:10-6.4 (Reserved) 142
§ 3A:10-7.1 Informing the alleged child victim, caregiver, and temporary caregiver about the investigation 143
§ 3A:10-7.2 Information provided to alleged perpetrator about the investigation 144
§ 3A:10-7.3 Investigation findings 145
§ 3A:10-7.4 Required findings of substantiated 147
§ 3A:10-7.5 Factors to be considered in determining a finding of substantiated or established 148
§ 3A:10-7.6 Notification of finding 149
§ 3A:10-7.7 Use of findings 150
§ 3A:10-7.8 Other notification at conclusion of investigation 151
§ 3A:10-8.1 Expunction limited to a record that consists of an unfounded report; contents of record to be expunged 153
§ 3A:10-8.2 Time frames and start date 154
§ 3A:10-8.3 When the Department retains rather than expunges a record 155
§ 3A:10-8.4 When an IAIU record is expunged 156
§ 3A:10-8.5 Notification of record expunction 157
Title 3A, Chapter 11 -- Service Delivery General Provisions 158

§ 3A:11-1.1 Purpose 159
§ 3A:11-1.2 Scope 160
§ 3A:11-1.3 Definitions 161
§ 3A:11-1.4 Rights of applicants and clients 170
§ 3A:11-1.5 Responsibilities of applicants and clients 172
§ 3A:11-1.6 Responsibilities of the Division 173
§ 3A:11-1.7 Service limitations 174
§ 3A:11-1.8 (Reserved) 175
Title 3A, Chapter 12 -- Case Management 176
§ 3A:12-1.1 Purpose 177
§ 3A:12-1.2 Scope 178
§ 3A:12-1.3 Definitions 179
§ 3A:12-1.4 When a case plan is developed 180
§ 3A:12-1.5 Participants in developing the case plan 181
§ 3A:12-1.6 Process of developing the case plan 182
§ 3A:12-1.7 Contents of the written case plan 183
§ 3A:12-1.8 Notice of the case plan 185
§ 3A:12-2.1 Authority 186
§ 3A:12-2.2 Purpose 187
§ 3A:12-2.3 Scope 188
§ 3A:12-2.4 Definitions 189
§ 3A:12-2.5 Purpose of in-person visits by the Division representative 190
§ 3A:12-2.6 Establishing a schedule for in-person visits 191
§ 3A:12-2.7 In-person visitation when a child is placed out of his or her own home 192
§ 3A:12-2.8 Change in placement 193
§ 3A:12-2.9 Placement in a treatment-based out-of-home placement program further than 50 miles from the New Jersey State border 194
§ 3A:12-2.10 Initial in-person visits 195
§ 3A:12-2.11 In-person visitation with a child alone 196
Title 3A, Chapter 12, Subchapters 3 through 4 (Reserved) 197
Title 3A, Chapter 13 -- General Placement Provisions 198
Title 3A, Chapter 13, Subchapter 1. (Reserved) 199
Title 3A, Chapter 13, Subchapter 2. (Reserved) 199
Title 3A, Chapter 13, Subchapter 3. (Reserved) 199
§ 3A:13-3.1 Scope 200

§ 3A:13-3.2 Definitions 201
§ 3A:13-3.3 Purpose of a placement review 202
§ 3A:13-3.4 Determination of whether out-of-home placement or care provided by a relative should continue 203
§ 3A:13-3.5 Frequency of placement reviews 204
§ 3A:13-3.6 Notice of Division placement review 205
§ 3A:13-3.7 Convening and conducting the Division placement review 206
§ 3A:13-3.8 Division responsibility to the Child Placement Review Board 208
§ 3A:13-3.9 Review of adoption placement 209
§ 3A:13-3.10 Living arrangements subject to a placement review 210
§ 3A:13-3.11 Living arrangements not subject to a placement review or review by the Child Placement Review Board 211
§ 3A:13-3.12 Termination of providing information to Child Placement Review Board 212
§ 3A:13-3.13 (Reserved) 213
§ 3A:13-4.1 Purpose 214
§ 3A:13-4.2 Scope 215
§ 3A:13-4.3 Definitions 216
§ 3A:13-4.4 Purpose of review 217
§ 3A:13-4.5 Notice of review 218
§ 3A:13-4.6 Participation in the review 219
§ 3A:13-4.7 Conducting the review 220
§ 3A:13-4.8 Frequency of review 221
§ 3A:13-5.1 Purpose 222
§ 3A:13-5.2 Scope 223
§ 3A:13-5.3 Definitions 224
§ 3A:13-5.4 Eligibility requirements 225
§ 3A:13-5.5 Initial application process 226
§ 3A:13-5.6 Initial application determination 227
§ 3A:13-5.7 Student notification 228
§ 3A:13-5.8 Public institution notification and award and recipient notification 229
§ 3A:13-5.9 Verification of enrollment and academic performance 230
§ 3A:13-5.10 Payment 231
§ 3A:13-5.11 Award combinations and overawards 232
§ 3A:13-5.12 Award adjustments, refunds and collections 233
§ 3A:13-5.13 Student's obligation to report changes in institution 234

§ 3A:13-5.14 Tuition Program renewal process 235
§ 3A:13-5.15 Appeals 236
Title 3A, Chapter 14 -- Resource Care 237
§ 3A:14-1.1 Purpose 238
§ 3A:14-1.2 Scope 239
§ 3A:14-1.3 Definitions 240
§ 3A:14-1.4 Service limitations 241
§ 3A:14-1.5 Nondiscrimination 242
§ 3A:14-1.6 Dispute resolution 243
§ 3A:14-2.1 Department employees and household members as resource parents 244
§ 3A:14-2.2 Relatives of an employee who have a separate household 245
§ 3A:14-3.1 Criminal history records checks 246
§ 3A:14-4.1 Division or contract agency responsibilities to a resource parent 247
§ 3A:14-5.1 Pre-service training 248
§ 3A:14-5.2 Reimbursement for resource parent applicant 249
§ 3A:14-5.3 Home visit 250
§ 3A:14-5.4 Resource parent applicant withdrawal 251
§ 3A:14-5.5 Transportation reimbursement 252
§ 3A:14-5.6 Resource parent's employment and supervision or child care for the child in placement 253
Title 3A, Chapter 15 -- Services for Children in Out-of-Home Placement 254
§ 3A:15-1.1 Purpose 255
§ 3A:15-1.2 Scope 256
§ 3A:15-1.3 Definitions 257
§ 3A:15-1.4 Visitation plan 258
§ 3A:15-1.5 Developing the visitation plan 259
§ 3A:15-1.6 Distribution of the visitation plan 260
§ 3A:15-1.7 Renegotiation of the visitation plan 261
§ 3A:15-1.8 Components of the visitation plan 262
§ 3A:15-1.9 Locations for visits 263
§ 3A:15-1.10 Determination of whether visit is to be supervised 264
§ 3A:15-1.11 Supervision of visits 265
§ 3A:15-1.12 Division participation in visits 266
§ 3A:15-1.13 Transportation for visits 267
§ 3A:15-1.14 Standards for the visitation plan 268
§ 3A:15-1.15 Reasons to limit visits 269

§ 3A:15-1.16 (Reserved) 270
§ 3A:15-2.1 Purpose 271
§ 3A:15-2.2 Scope 272
§ 3A:15-2.3 Definitions 273
§ 3A:15-2.4 Case management 274
§ 3A:15-2.5 Health care services 275
§ 3A:15-2.6 Educational services 277
§ 3A:15-2.7 Self-sufficiency skills for adolescent children 278
§ 3A:15-2.8 Other services to children in out-of-home placement 279
Title 3A, Chapter 16 -- Division Utilization of Family Child Care Providers 280
§ 3A:16-1.1 Purpose and scope 281
§ 3A:16-1.2 Definitions 282
§ 3A:16-2.1 Eligible providers of DYFS-authorized family child care services funded by the Department of Human Services or its agents 283
§ 3A:16-2.2 Maximum number of children 284
§ 3A:16-2.3 Exception to maximum number of children 285
§ 3A:16-2.4 Use of family child care provider when child abuse or neglect is substantiated 286
Title 3A, Chapter 17 -- Removal of Children in Placement from Resource Family Homes 287
§ 3A:17-1.1 Authority 288
3A:17-1.2 Purpose 289
§ 3A:17-1.3 Scope 290
§ 3A:17-1.4 Definitions 291
§ 3A:17-2.1 Removal in emergency situations 292
§ 3A:17-2.2 Removal in non-emergency situations 294
§ 3A:17-2.3 Procedures prior to a non-emergency removal 295
§ 3A:17-2.4 Removal due to criminal conviction 296
§ 3A:17-2.5 Considerations in deciding whether or not to remove 297
§ 3A:17-2.6 Notification 298
§ 3A:17-2.7 Disagreements 299
Title 3A, Chapter 18 -- New Jersey Safe Haven Infant Protection Act Procedures and Requirements 300
§ 3A:18-1.1 Purpose 301
§ 3A:18-1.2 Scope 302
§ 3A:18-1.3 Definitions 303
§ 3A:18-1.4 Role of the State Central Registry for safe haven infant cases 304
§ 3A:18-1.5 Affirmative defense to prosecution 305

§ 3A:18-1.6 Anonymity of the parent or other person acting on behalf of the parent permitted, provision of information strictly voluntary 306
§ 3A:18-1.7 Actions taken by police, firefighter, emergency medical responder, or hospital staff when infant brought to the police station, fire department, ambulance, or emergency department of hospital 307
§ 3A:18-1.8 Actions taken by hospital staff when handling safe haven infant at hospital 308
§ 3A:18-1.9 Police officers, firefighters, emergency medical responders, and hospital staff gather information, record in police, fire department, or ambulance incident report and infant's medical chart 309
§ 3A:18-1.10 Action taken by the Division upon receipt of a referral of a safe haven infant 311
§ 3A:18-1.11 Division not required to search for or identify parents or reunify birth family 312
§ 3A:18-1.12 Actions taken when identification of safe haven infant's parent or family is determined 313
§ 3A:18-1.13 Police officers, firefighters, emergency medical responders, and hospital staff acting in good faith immune from liability 314
§ 3A:18-1.14 (Reserved) 315
Title 3A, Chapter 19 -- Court Actions and Procedures 316
§ 3A:19-1.1 Scope; applicability and purpose 317
§ 3A:19-1.2 Court actions by the Division 318
Title 3A, Chapter 20 -- Legal Guardianship 319
§ 3A:20-1.1 Purpose of N.J.A.C. 3A:20-1 and 2 320
§ 3A:20-1.2 Scope of N.J.A.C. 3A:20-1 and 2 321
§ 3A:20-1.3 Definitions 322
§ 3A:20-1.4 Service limitations 323
§ 3A:20-1.5 Responsibilities of a relative participating in the DYFS Legal Guardianship Subsidy Program 324
§ 3A:20-1.6 Eligibility for the CP&P Legal Guardianship Subsidy Program 325
§ 3A:20-1.7 License required 326
§ 3A:20-1.8 Division action 327
§ 3A:20-1.9 Circumstances requiring redetermination 328
§ 3A:20-1.10 Circumstances requiring termination 329
§ 3A:20-1.11 Duration and amount of subsidy 330
§ 3A:20-2.1 Types of services provided 331
§ 3A:20-3.1 Purpose 332
§ 3A:20-3.2 Scope 333
§ 3A:20-3.3 Kinship caregiver assessment done by the Division 334
§ 3A:20-3.4 Information provided to a designated agency and the court 335
§ 3A:20-3.5 The Division's responsibility when the court is considering whether to vacate a kinship legal guardianship order 336
§ 3A:20-3.6 Factors to consider regarding motions to vacate kinship legal guardianship orders 337

Title 3A, Chapter 21 -- Termination of Parental Rights 338
§ 3A:21-1.1 Purpose 339
§ 3A:21-1.2 Scope 340
§ 3A:21-1.3 Definitions 341
§ 3A:21-2.1 Involuntary termination of parental rights 342
§ 3A:21-2.2 Exceptions to termination of parental rights criteria 343
§ 3A:21-2.3 Factors to consider when filing for termination of parental rights 344
§ 3A:21-3.1 Division responsibilities 345
§ 3A:21-3.2 Additional procedures 347
§ 3A:21-3.3 Surrender executed in other states and other countries 348
§ 3A:21-4 (Reserved) 349
Title 3A, Chapter 22 -- Requirements for CP&P Adoptions 350
§ 3A:22-1.1 Purpose 351
§ 3A:22-1.2 Scope 352
§ 3A:22-1.3 Definitions 353
§ 3A:22-1.4 Application of rules 355
§ 3A:22-1.5 Service limitations 356
§ 3A:22-2.1 Confidentiality 357
§ 3A:22-2.2 Community partnerships 358
§ 3A:22-2.3 Utilizing contract agencies 359
§ 3A:22-2.4 State and national exchange registration 360
§ 3A:22-2.5 Recruitment types 361
§ 3A:22-2.6 Non-discrimination 362
§ 3A:22-2.7 (Reserved) 363
§ 3A:22-3.1 Adoptive applicant 364
§ 3A:22-3.2 Release of home studies 365
§ 3A:22-4.1 Criteria for adoptive home selection 366
§ 3A:22-4.2 Placement of the child with the adoptive parent 367
§ 3A:22-5.1 Post-placement services 368
§ 3A:22-5.2 Division activities related to finalization 369
§ 3A:22-6.1 Post-adoption services available 370
§ 3A:22-6.2 Adoption registry services available 371
§ 3A:22-6.3 Person's identity verified 372
Title 3A, Chapter 22, Subchapter 7. (Reserved) 373
§ 3A:22-7.1 (Reserved) 373

§ 3A:22-7.2 (Reserved) 373
Title 3A, Chapter 23 -- Adoptions 374
§ 3A:23-1.1 Definitions 375
§ 3A:23-1.2 Determining that a child is a child with special needs 376
§ 3A:23-1.3 Payments for the care and maintenance of a child with special needs (adoption subsidy) 378
§ 3A:23-1.4 Duration and amount of adoption subsidy 380
§ 3A:23-1.5 Other payments 381
§ 3A:23-1.6 Exceptions 382
§ 3A:23-1.7 Administrative hearings 383
Title 3A, Chapter 23, Subchapters 2 through 3. (Reserved) 384
Title 3A, Chapter 24 -- Adoption Assistance and Child Welfare Act of 1980 Requirements 385
§ 3A:24-1.1 New Jersey Child and Family Services Plan 386
§ 3A:24-2.1 State child welfare services permanency planning 387
§ 3A:24-2.2 State child welfare services goals 388
Title 3A, Chapter 25. (Reserved) 389
Title 3A, Chapter 26 -- Substance-Affected Infants 390
§ 3A:26-1.1 Reports of substance-affected infants 391
§ 3A:26-1.2 Definitions 392
§ 3A:26-1.3 Content of reports 393
Title 3A, Chapter 27 through 39. (Reserved) 394
Title 3A, Chapter 40 -- Determination of Eligibility for Functional Services from the Division of Children's System of Care 395
§ 3A:40-1.1 Purpose 396
§ 3A:40-1.2 Scope 397
§ 3A:40-1.3 Definitions 398
§ 3A:40-2.1 General eligibility 400
§ 3A:40-2.2 Residency 401
§ 3A:40-2.3 Presumptive eligibility for functional services 402
§ 3A:40-3.1 Who may apply 403
§ 3A:40-3.2 How to apply for functional services from the CSOC on behalf of children under 18 years of age 404
§ 3A:40-4.1 Determination 405
§ 3A:40-4.2 Notice requirements 406
§ 3A:40-5.1 Appeals 407
Title 3A, Chapter 41 through 49. (Reserved) 408
Title 3A, Chapter 50 -- Manual of Requirements for Adoption Agencies 409

§ 3A:50-1.1 Purpose 410
§ 3A:50-1.2 Scope 411
§ 3A:50-1.3 Implementation and enforcement responsibility; information 412
§ 3A:50-1.4 Authority to provide adoption services 413
§ 3A:50-1.5 Types of adoptions 414
§ 3A:50-1.6 Definitions 415
§ 3A:50-1.7 Compliance with State laws 418
§ 3A:50-1.8 Eligibility for a certificate of approval 419
§ 3A:50-2.1 Application for a certificate of approval 420
§ 3A:50-2.2 Issuance of a certificate of approval 421
§ 3A:50-2.3 Denying, suspending, revoking, or refusing to renew a certificate of approval 422
§ 3A:50-2.4 Administrative hearings 424
§ 3A:50-2.5 Court action 425
§ 3A:50-2.6 Complaints 426
§ 3A:50-2.7 Public access to Office of Licensing records 427
§ 3A:50-3.1 Governing board requirements for private agencies 428
§ 3A:50-3.2 Advisory board requirements for public agencies 430
§ 3A:50-3.3 Legal responsibilities 431
§ 3A:50-3.4 Information to parents and adoptive applicants 432
§ 3A:50-3.5 Reporting requirements 434
§ 3A:50-3.6 Agency records 436
§ 3A:50-3.7 Office facilities 441
§ 3A:50-4.1 General requirements 442
§ 3A:50-4.2 Personnel policies 443
§ 3A:50-4.3 Staff development 444
§ 3A:50-4.4 Staff qualifications and duties 445
§ 3A:50-4.5 Criminal History Record Information (CHRI) background checks 448
§ 3A:50-4.6 Child Abuse Record Information (CARI) background checks 452
§ 3A:50-4.7 Background check procedures for New Jersey agencies 453
§ 3A:50-4.8 Background check procedures for out-of-State agencies 454
§ 3A:50-5.1 Scope of service 455
§ 3A:50-5.2 General requirements 456
§ 3A:50-5.3 Fees and fiscal practices 457
§ 3A:50-5.4 Services to birth parents 458
§ 3A:50-5.5 Pre-placement services to the child 462

§ 3A:50-5.6 Home study services 465
§ 3A:50-5.7 Placement services 474
§ 3A:50-5.8 Post-placement services 476
§ 3A:50-5.9 Post-adoption services 480
§ 3A:50-5.10 Searches 481
Title 3A, Chapter 51 -- Manual of Requirements for Resource Family Parents 483
§ 3A:51-1.1 Authorization to be a resource family parent 484
§ 3A:51-1.2 Scope 485
§ 3A:51-1.3 Definitions 486
§ 3A:51-1.4 Capacity ..... **Error! Bookmark not defined.**
§ 3A:51-1.5 Compliance with level I and level II requirements 489
§ 3A:51-1.6 Nondiscrimination 490
§ 3A:51-2.1 Application for a license 491
§ 3A:51-2.2 Issuance of a license 493
§ 3A:51-2.3 Annual inspection 495
§ 3A:51-2.4 Renewal of a license 496
§ 3A:51-2.5 Denying, suspending, revoking, or refusing to renew a license 497
§ 3A:51-2.6 Administrative hearings 499
§ 3A:51-2.7 Complaints 500
§ 3A:51-3.1 Rights of children in placement 501
§ 3A:51-3.2 Records kept by a resource family parent 502
§ 3A:51-3.3 Confidentiality of records 503
§ 3A:51-3.4 Reporting requirements 504
§ 3A:51-4.1 Physical facility and maintenance requirements 505
§ 3A:51-4.2 Bedroom requirements 508
§ 3A:51-4.3 Emergency evacuation, medical emergencies, and fire prevention 509
§ 3A:51-5.1 General personal requirements 512
§ 3A:51-5.2 References 514
§ 3A:51-5.3 Home study 517
§ 3A:51-5.4 Criminal History Record Information background checks 518
§ 3A:51-5.5 Child Abuse Record Information background checks 521
§ 3A:51-5.6 Training 523
§ 3A:51-5.7 (Reserved) 524
§ 3A:51-6.1 Supervision of children in placement 525
§ 3A:51-6.2 Visitation and communication 526

§ 3A:51-6.3 Education 528
§ 3A:51-6.4 Recreation 529
§ 3A:51-6.5 Religion 530
§ 3A:51-6.6 Food and nutrition 531
§ 3A:51-6.7 Pets 532
§ 3A:51-6.8 Discipline and control 533
§ 3A:51-6.9 Firearms and weapons 534
§ 3A:51-6.10 Clothing 535
§ 3A:51-7.1 Health care and medical treatment 536
§ 3A:51-7.2 General health practices 537
§ 3A:51-7.3 Prescription and non-prescription medication 538
§ 3A:51-7.4 Psychotropic medication 539
§ 3A:51-7.5 Personal care and hygiene 541
§ 3A:51-7.6 Environmental sanitation and hygiene 542
§ 3A:51-8.1 Transportation and vehicle safety requirements 543
Title 3A, Chapter 52 -- Manual of Requirements for Child Care Centers 544
§ 3A:52-1.1 Legal authority 545
§ 3A:52-1.2 Definition of child care center 547
§ 3A:52-1.3 Programs exempt from licensure 548
§ 3A:52-1.4 Definitions of other terms 550
§ 3A:52-1.5 Hours of care 552
§ 3A:52-2.1 Application for a license 553
§ 3A:52-2.2 Issuance of a license 554
§ 3A:52-2.3 Location of a center 555
§ 3A:52-2.4 Denying, suspending, revoking, or refusing to renew a license or a Certificate of Life/Safety Approval 556
§ 3A:52-2.5 Administrative hearings 558
§ 3A:52-2.6 Complaints 559
§ 3A:52-2.7 Public access to the Office of Licensing's records 560
§ 3A:52-2.8 Procedures for securing a Certificate of Life/Safety Approval 561
§ 3A:52-3.1 Administrative responsibility 562
§ 3A:52-3.2 Reporting requirements 563
§ 3A:52-3.3 Center records 564
§ 3A:52-3.4 Comprehensive general liability insurance 565
§ 3A:52-3.5 Communication requirements 566

§ 3A:52-3.6 Information to Parents document 567
§ 3A:52-4.1 General requirements for sponsor, sponsor representative, director, and all staff members 569
§ 3A:52-4.2 Staffing requirements 571
§ 3A:52-4.3 Staff/child ratios and supervision 573
§ 3A:52-4.4 Grouping of children 576
§ 3A:52-4.5 Staff responsibilities 578
§ 3A:52-4.6 Staff qualifications 581
§ 3A:52-4.7 Staff orientation and development 587
§ 3A:52-4.8 Orientation training 588
§ 3A:52-4.9 Special requirements to prevent child abuse and neglect 590
§ 3A:52-4.10 Child Abuse Record Information background check procedures 591
§ 3A:52-4.11 Criminal History Record Information background check procedures 593
§ 3A:52-5.1 Applicability of requirements to programs operating in public school buildings 596
§ 3A:52-5.2 State, county, and municipal government physical facility requirements 597
§ 3A:52-5.3 Physical plant requirements for all centers 600
§ 3A:52-5.4 Additional physical plant requirements for early childhood programs 611
§ 3A:52-5.5 Additional physical plant requirements for school-age child care programs 613
§ 3A:52-5.6 Special physical facility and monitoring requirements to prevent child abuse or neglect 614
§ 3A:52-6.1 Activities 616
§ 3A:52-6.2 Program equipment for children's daily activities 619
§ 3A:52-6.3 Food and nutrition 620
§ 3A:52-6.4 Rest and sleep requirements for early childhood programs 624
§ 3A:52-6.5 Policy on the release of children 627
§ 3A:52-6.6 Discipline 629
§ 3A:52-6.7 Special requirements to prevent child abuse or neglect and inappropriate staff behaviors toward children 630
§ 3A:52-6.8 Parent and community participation 631
§ 3A:52-7.1 Illnesses and communicable diseases 635
§ 3A:52-7.2 Attendance by children or staff members known to be infected with Human Immunodeficiency Virus (HIV) 637
§ 3A:52-7.3 Health and immunization requirements for children 638
§ 3A:52-7.4 Health requirements for staff members 640
§ 3A:52-7.5 Administration and control of prescription and non-prescription medicines and health care procedures 641
§ 3A:52-7.6 Injury to a child while in the center's care 643
§ 3A:52-7.7 Environmental sanitation requirements 645

§ 3A:52-7.8 Personal hygiene requirements 648
§ 3A:52-7.9 Illness log for early childhood programs 650
§ 3A:52-7.10 Reporting of illnesses, injuries, and reportable diseases 651
§ 3A:52-7.11 Information to parents regarding the management of communicable diseases 652
§ 3A:52-8.1 Requirements for all centers serving sick children 653
§ 3A:52-8.2 Admission criteria 655
§ 3A:52-8.3 Requirements for additional staff for centers serving sick children 656
§ 3A:52-8.4 Requirements for additional physical facilities for centers serving sick children 658
§ 3A:52-8.5 Program requirements for centers serving sick children 659
§ 3A:52-8.6 Sanitation and infection control 660
§ 3A:52-8.7 Requirements for additional records for centers serving sick children 661
§ 3A:52-9.1 Scope 662
§ 3A:52-9.2 Vehicle definitions 663
§ 3A:52-9.3 Vehicle requirements 664
§ 3A:52-9.4 Driver licensing requirements 666
§ 3A:52-9.5 Vehicle-related safety practices 667
§ 3A:52-9.6 Vehicle insurance 668
§ 3A:52-9.7 Transportation records 669
§ 3A:52-9.8 Vehicle staff requirements 670
§ 3A:52-9.9 (Reserved) 671
Title 3A, Chapter 53 -- Manual of Standards for Children's Shelter Facilities and Shelter Homes 672
§ 3A:53-1.1 Legal authority 673
§ 3A:53-1.2 Definitions 674
§ 3A:53-1.3 Population served by shelter facilities and shelter homes 676
§ 3A:53-1.4 Capacity and location of shelter facilities and shelter homes 677
§ 3A:53-1.5 Approval requirements 678
§ 3A:53-1.6 Administrative hearings 680
§ 3A:53-1.7 Public access to Office records for children's shelter facilities and shelter homes 681
§ 3A:53-2.1 Statement of purpose 682
§ 3A:53-2.2 Rights of children 683
§ 3A:53-2.3 Intake and admissions procedures 684
§ 3A:53-2.4 Reporting requirements 685
§ 3A:53-2.5 Records 686
§ 3A:53-3.1 Basic information 689
§ 3A:53-3.2 Health requirements for shelter facility staff 691

§ 3A:53-3.3 Qualifications for shelter facility staff 692
§ 3A:53-3.4 Qualifications for shelter home coordinator and shelter home parent 693
§ 3A:53-3.5 Staff/child ratios for shelter facilities 694
§ 3A:53-3.6 Staff development and evaluation for shelter facilities 695
§ 3A:53-3.7 Governing body or citizens board for shelter facilities 696
§ 3A:53-3.8 Criminal History Record Information background checks 697
§ 3A:53-3.9 Child Abuse Record Information background checks 701
§ 3A:53-3.10 Background check procedures for New Jersey shelter facilities and shelter homes 703
§ 3A:53-3.11 Background check procedures for out-of-State shelter facilities and shelter homes 704
§ 3A:53-4.1 Health 705
§ 3A:53-4.2 Clothing and personal belongings 706
§ 3A:53-4.3 Food and nutrition requirements for shelter facilities and shelter homes 707
§ 3A:53-4.4 Rest, bedroom, and sleep 708
§ 3A:53-4.5 Education 710
§ 3A:53-4.6 Social services requirements for shelter facilities 711
§ 3A:53-4.7 Recreation 712
§ 3A:53-4.8 Religion requirements for shelter facilities and shelter homes 713
§ 3A:53-4.9 Work and employment 714
§ 3A:53-4.10 Routines and house rules for shelter facilities 715
§ 3A:53-4.11 Restrictive behavior management practices 716
§ 3A:53-4.12 Discipline and control 717
§ 3A:53-4.13 Visitation 719
§ 3A:53-4.14 Mail and telephone communications 720
§ 3A:53-4.15 Firearms/weapons prohibition 721
§ 3A:53-4.16 Search and seizure requirements for shelter facilities and shelter homes 722
§ 3A:53-5.1 Local government physical facility requirements for shelter facilities and shelter homes 724
§ 3A:53-5.2 State government physical facility requirements for shelter facilities 726
§ 3A:53-5.3 State government physical facility requirements for shelter homes 731
§ 3A:53-5.4 Life-safety requirements for shelter facilities and shelter homes 732
§ 3A:53-5.5 Supplemental requirement 733
§ 3A:53-6.1 Vehicle requirements 734
§ 3A:53-6.2 Driver requirements 735
§ 3A:53-6.3 Safety practices 736
§ 3A:53-6.4 Transportation records 737
§ 3A:53-6.5 Insurance 738

§ 3A:53-6.6 Special regulations 739
Title 3A, Chapter 54 -- Manual of Requirements for Family Child Care Registration 740
§ 3A:54-1.1 Legal authority 741
§ 3A:54-1.2 Definitions 743
§ 3A:54-1.3 Approval requirements for sponsoring organizations 746
§ 3A:54-1.4 Public access to records 748
§ 3A:54-2.1 Sponsoring organization eligibility 750
§ 3A:54-2.2 Administrative responsibility 751
§ 3A:54-2.3 Reporting requirements 753
§ 3A:54-2.4 Sponsoring organization records 754
§ 3A:54-2.5 Complaints against a sponsoring organization 756
§ 3A:54-2.6 (Reserved) 757
§ 3A:54-3.1 General staff requirements 758
§ 3A:54-3.2 Types and responsibilities of staff 760
§ 3A:54-3.3 Staff qualifications 761
§ 3A:54-3.4 Staff training 762
§ 3A:54-4.1 Evaluation of family child care provider applicants 763
§ 3A:54-4.2 Training of family child care providers 765
§ 3A:54-4.3 Issuance of a Certificate of Registration 767
§ 3A:54-4.4 Issuance of a temporary Certificate of Registration 768
§ 3A:54-4.5 Collection of registration fees 769
§ 3A:54-4.6 Complaints against a provider 770
§ 3A:54-4.7 Monitoring of family child care providers 771
§ 3A:54-4.8 Technical assistance 772
§ 3A:54-4.9 Information to parents 773
§ 3A:54-4.10 Referral procedures 775
§ 3A:54-4.11 Outreach and public relations 776
§ 3A:54-5.1 Provider eligibility 777
§ 3A:54-5.2 Application for registration 778
§ 3A:54-5.3 Child Abuse Record Information background check procedures 781
§ 3A:54-5.4 Issuance of a Certificate of Registration 783
§ 3A:54-5.5 Issuance of a temporary Certificate of Registration 784
§ 3A:54-5.6 Registration fees 785
§ 3A:54-5.7 Renewal of a Certificate of Registration 786
§ 3A:54-5.8 Denials, suspensions, revocations, non-renewals, and provider appeal procedures 787

§ 3A:54-5.9 Special requirements to prevent child abuse and neglect 789
§ 3A:54-5.10 Provider reporting requirements 790
§ 3A:54-5.11 Provider record requirements 791
§ 3A:54-6.1 Maximum number of children 793
§ 3A:54-6.2 Ages of children 794
§ 3A:54-6.3 Building and equipment 795
§ 3A:54-6.4 Emergency preparedness 796
§ 3A:54-6.5 General safety 799
§ 3A:54-6.6 Outdoor space 800
§ 3A:54-6.7 Transportation and trips 802
§ 3A:54-6.8 Health examinations for children 803
§ 3A:54-6.9 Sick children 805
§ 3A:54-6.10 Injury to a child while in the provider's care 806
§ 3A:54-6.11 Environmental sanitation and personal hygiene 807
§ 3A:54-6.12 Activities for children 809
§ 3A:54-6.13 Rest and sleep 810
§ 3A:54-6.14 Food and nutrition 811
§ 3A:54-6.15 Bottle and cup feeding 812
§ 3A:54-6.16 Toilet training and diaper changing 813
§ 3A:54-6.17 School age children 814
§ 3A:54-6.18 Children with special needs 815
§ 3A:54-6.19 Supervision 816
§ 3A:54-6.20 Guidance and discipline 818
§ 3A:54-6.21 Communicating with parents 819
§ 3A:54-6.22 Night time child care 820
Title 3A, Chapter 55 -- Manual of Requirements for Residential Child Care Facilities 821
§ 3A:55-1.1 Legal authority 822
§ 3A:55-1.2 Definition and types of children's residential facilities 823
§ 3A:55-1.3 Definitions 824
§ 3A:55-2.1 Application for a certificate of approval 826
§ 3A:55-2.2 Issuance of a certificate of approval 827
§ 3A:55-2.3 Denying, suspending, revoking, or refusing to renew a certificate of approval 828
§ 3A:55-2.4 Administrative hearings 830
§ 3A:55-2.5 Complaints 831
§ 3A:55-2.6 Public access to the Office of Licensing's records 832

§ 3A:55-3.1 Statement of purpose 833
§ 3A:55-3.2 Rights of children 834
§ 3A:55-3.3 Information to parents and staff members 835
§ 3A:55-3.4 Community participation 837
§ 3A:55-3.5 Conflict of interest and compliance with law 838
§ 3A:55-3.6 Intake and admissions 839
§ 3A:55-3.7 Reporting requirements 840
§ 3A:55-3.8 Records 841
§ 3A:55-3.9 Comprehensive general liability insurance 846
§ 3A:55-4.1 Physical facility initial approval requirements for all facilities located in New Jersey 847
§ 3A:55-4.2 Physical facility initial approval requirements for all facilities located outside of New Jersey 849
§ 3A:55-4.3 Maintenance and sanitation requirements for all facilities 850
§ 3A:55-4.4 Additional maintenance and sanitation requirements for all facilities located in New Jersey 852
§ 3A:55-4.5 Emergency evacuation instructions, medical emergencies, fire prevention, first aid, and equipment 855
§ 3A:55-4.6 Prohibition on the use of tobacco products 857
§ 3A:55-5.1 General requirements for director and all staff members 858
§ 3A:55-5.2 Staff qualifications 861
§ 3A:55-5.3 Staff to child ratios 867
§ 3A:55-5.4 Staff training and development 868
§ 3A:55-5.5 Volunteers and student interns 869
§ 3A:55-5.6 Criminal History Record Information background checks 870
§ 3A:55-5.7 Child Abuse Record Information background checks 874
§ 3A:55-5.8 Background check procedures for New Jersey facilities 875
§ 3A:55-5.9 Background check procedures for out-of-State facilities 876
§ 3A:55-6.1 Treatment plan for children in residential child care facilities 877
§ 3A:55-6.2 Discharge planning 880
§ 3A:55-6.3 Grouping of children within living units 881
§ 3A:55-6.4 Work and employment 882
§ 3A:55-6.5 Money and allowance 883
§ 3A:55-6.6 Visitation and communication 884
§ 3A:55-6.7 Education 886
§ 3A:55-6.8 Recreation 888
§ 3A:55-6.9 Religion 889
§ 3A:55-6.10 Rest, bedroom and sleep 890

§ 3A:55-6.11 Food and nutrition for children 892
§ 3A:55-6.12 Pets 893
§ 3A:55-6.13 Restrictive behavior management practices 894
§ 3A:55-6.14 Discipline and control 901
§ 3A:55-6.15 Search and seizure of weapons and contraband 902
§ 3A:55-6.16 Firearms and weapons 905
§ 3A:55-6.17 Aversive conditioning procedures 906
§ 3A:55-7.1 Comprehensive health plan for children 907
§ 3A:55-7.2 Health care and medical treatment for children 908
§ 3A:55-7.3 General medical practices 909
§ 3A:55-7.4 Medication other than psychotropic medication 910
§ 3A:55-7.5 Psychotropic medication 912
§ 3A:55-7.6 Health education and physical care for children 917
§ 3A:55-7.7 Health requirements for staff 918
§ 3A:55-7.8 Environmental sanitation and staff hygiene 919
§ 3A:55-8.1 General requirements 920
§ 3A:55-8.2 Additional requirements for transporting physically handicapped, non-ambulatory children 922
§ 3A:55-8.3 Record requirements 923
§ 3A:55-8.4 (Reserved) 924
§ 3A:55-9.1 General requirements 925
§ 3A:55-9.2 Plans for emergency evacuation and search and rescue 927
§ 3A:55-9.3 Reporting requirements 929
§ 3A:55-9.4 Biking 930
§ 3A:55-9.5 Canoeing, kayaking, and tubing 932
§ 3A:55-9.6 Caving 934
§ 3A:55-9.7 Hiking 936
§ 3A:55-9.8 Horseback riding 937
§ 3A:55-9.9 Ropes initiatives and rock climbing 938
§ 3A:55-9.10 Sailing and boating 939
§ 3A:55-9.11 Snow skiing 941
§ 3A:55-9.12 Solos (solitary activities) 942
§ 3A:55-9.13 Swimming 943
§ 3A:55-9.14 Water skiing 944
§ 3A:55-9.15 Camping 945
§ 3A:55-9.16 Requirements for wagon trains 947

§ 3A:55-9.17 Health and sanitary practices 948
§ 3A:55-9.18 Qualifications for staff supervising adventure activities 949
§ 3A:55-9.19 Staff to child ratio requirements 950
§ 3A:55-9.20 Special requirements for communication and visiting 951
§ 3A:55-10.1 General requirements 952
§ 3A:55-10.2 Staff and staff to child ratio requirements 955
§ 3A:55-10.3 Staff development and training 956
§ 3A:55-10.4 Case management requirements 957
§ 3A:55-10.5 Discharge planning requirements 960
§ 3A:55-10.6 Services regarding paternal involvement 961
§ 3A:55-10.7 Services to the adolescent's family 962
§ 3A:55-10.8 Parenting education 963
§ 3A:55-10.9 Infant stimulation 964
§ 3A:55-10.10 Infant toys and equipment 965
§ 3A:55-10.11 Recreation 966
§ 3A:55-10.12 Money and allowance 967
§ 3A:55-10.13 Visiting and communication 968
§ 3A:55-10.14 Behavior management 969
§ 3A:55-10.15 Comprehensive health plan for pregnant adolescents 970
§ 3A:55-10.16 Comprehensive health plan for infants 971
§ 3A:55-10.17 Comprehensive health care for adolescent mothers who are not pregnant 973
§ 3A:55-10.18 Care of sick infants 974
§ 3A:55-10.19 General medical practices 975
§ 3A:55-10.20 Medication 976
§ 3A:55-10.21 Environmental sanitation requirements for disinfecting 977
§ 3A:55-10.22 Personal hygiene requirements 979
§ 3A:55-10.23 Health education and physical care for adolescents and infants 980
§ 3A:55-10.24 Food and nutrition for infants 981
§ 3A:55-10.25 Life skills development 982
Title 3A, Chapter 56 -- Manual of Requirements for Children's Group Homes 983
§ 3A:56-1.1 LEGAL AUTHORITY 984
§ 3A:56-1.2 Definition and types of children's group homes 985
§ 3A:56-1.3 Definitions 986
§ 3A:56-2.1 Application for a certificate of approval 988
§ 3A:56-2.2 Issuance of a certificate of approval 989

§ 3A:56-2.3 Denying, suspending, revoking or refusing to renew a certificate of approval 990
§ 3A:56-2.4 Administrative hearings 992
§ 3A:56-2.5 Complaints 993
§ 3A:56-2.6 Public access to licensing records 994
§ 3A:56-3.1 Statement of purpose 995
§ 3A:56-3.2 Rights of children 996
§ 3A:56-3.3 Information to parents and staff members 997
§ 3A:56-3.4 Community participation 999
§ 3A:56-3.5 Conflict of interest 1000
§ 3A:56-3.6 Intake and admissions 1001
§ 3A:56-3.7 Reporting requirements 1003
§ 3A:56-3.8 Records 1005
§ 3A:56-3.9 Comprehensive general liability insurance 1010
§ 3A:56-3.10 Quality assurance (QA) for psychiatric community homes for children 1011
§ 3A:56-4.1 Physical facility initial approval requirements for all homes located in New Jersey 1012
§ 3A:56-4.2 Physical facility initial approval requirements for all homes located outside of New Jersey .. 1014
§ 3A:56-4.3 Maintenance and sanitation requirements for all homes 1015
§ 3A:56-4.4 Additional maintenance and sanitation requirements for all homes located in New Jersey 1017
§ 3A:56-4.5 Emergency evacuation instructions, medical emergencies, fire prevention, first aid, and equipment 1020
§ 3A:56-4.6 Prohibition on the use of tobacco products 1022
§ 3A:56-5.1 General requirements for director and all staff members 1023
§ 3A:56-5.2 Staff qualifications 1026
§ 3A:56-5.3 Staff-to-child ratios 1031
§ 3A:56-5.4 Staff training and development 1034
§ 3A:56-5.5 Volunteers and student interns 1036
§ 3A:56-5.6 Criminal History Record Information background checks 1037
§ 3A:56-5.7 Child Abuse Record Information background checks 1041
§ 3A:56-5.8 Background check procedures for New Jersey homes and agencies 1043
§ 3A:56-5.9 Background check procedures for out-of-State homes and agencies 1044
§ 3A:56-6.1 Treatment plan for children in group homes, psychiatric community homes for children, teaching family homes, treatment homes, and alternative care homes 1045
§ 3A:56-6.2 Discharge planning 1048
§ 3A:56-6.3 Case management plan for children in supervised transitional living homes 1049
§ 3A:56-6.4 Work and employment 1051

§ 3A:56-6.5 Money and allowance 1052
§ 3A:56-6.6 Visitation and communication 1053
§ 3A:56-6.7 Education 1055
§ 3A:56-6.8 Recreation 1056
§ 3A:56-6.9 Religion 1057
§ 3A:56-6.10 Rest, bedroom, and sleep 1058
§ 3A:56-6.11 Food and nutrition for children 1060
§ 3A:56-6.12 Pets 1061
§ 3A:56-6.13 Restrictive behavior management practices 1062
§ 3A:56-6.14 Discipline and control 1066
§ 3A:56-6.15 Search and seizure of weapons and contraband 1068
§ 3A:56-6.16 Firearms and weapons 1072
§ 3A:56-6.17 Clothing 1073
§ 3A:56-7.1 Comprehensive health plan for children 1074
§ 3A:56-7.2 Health care and medical treatment for children 1075
§ 3A:56-7.3 General medical practices 1077
§ 3A:56-7.4 Medication other than psychotropic medication 1078
§ 3A:56-7.5 Psychotropic medication 1080
§ 3A:56-7.6 Health education and physical care for children 1085
§ 3A:56-7.7 Health requirements for staff 1086
§ 3A:56-7.8 Environmental sanitation and staff hygiene 1087
§ 3A:56-8.1 General requirements 1088
§ 3A:56-8.2 Vehicle insurance requirements 1090
§ 3A:56-8.3 Additional requirements for transporting physically handicapped, non-ambulatory children . 1091
§ 3A:56-8.4 Record requirements 1092
§ 3A:56-9.1 General requirements 1093
§ 3A:56-9.2 Plans for emergency evacuation and search and rescue 1096
§ 3A:56-9.3 Reporting requirements 1098
§ 3A:56-9.4 Biking 1099
§ 3A:56-9.5 Canoeing, kayaking, and tubing 1101
§ 3A:56-9.6 Caving 1103
§ 3A:56-9.7 Hiking 1104
§ 3A:56-9.8 Horseback riding 1105
§ 3A:56-9.9 Ropes initiatives and rock climbing 1106
§ 3A:56-9.10 Sailing and boating 1107

§ 3A:56-9.11 Snow skiing, cross country skiing, snow boarding and snow tubing 1109
§ 3A:56-9.12 Solo (solitary activities) 1110
§ 3A:56-9.13 Swimming 1111
§ 3A:56-9.14 Water skiing 1112
§ 3A:56-9.15 Camping 1113
§ 3A:56-9.16 Requirements for wagon trains 1115
§ 3A:56-9.17 Health and sanitary practices 1116
§ 3A:56-9.18 Qualifications for staff supervising adventure activities 1117
§ 3A:56-9.19 Staff to child ratio requirements 1118
§ 3A:56-9.20 Special requirements for communication and visiting 1119
§ 3A:56-10.1 General requirements 1121
§ 3A:56-10.2 Staff and staff ratio requirements 1124
§ 3A:56-10.3 Staff development and training 1125
§ 3A:56-10.4 Case management requirements 1126
§ 3A:56-10.5 Discharge planning requirements 1129
§ 3A:56-10.6 Services regarding paternal involvement 1131
§ 3A:56-10.7 Services to the adolescent's family 1132
§ 3A:56-10.8 Parenting education 1133
§ 3A:56-10.9 Infant stimulation 1134
§ 3A:56-10.10 Infant toys and equipment 1135
§ 3A:56-10.11 Recreation 1136
§ 3A:56-10.12 Money and allowance 1137
§ 3A:56-10.13 Visiting and communication 1138
§ 3A:56-10.14 Behavior management 1139
§ 3A:56-10.15 Comprehensive health plan for pregnant adolescents 1140
§ 3A:56-10.16 Comprehensive health plan for infants 1141
§ 3A:56-10.17 Comprehensive health care for adolescent mothers who are not pregnant 1142
§ 3A:56-10.18 Care of sick infants 1143
§ 3A:56-10.19 General medical practices 1144
§ 3A:56-10.20 Medication 1145
§ 3A:56-10.21 Environmental sanitation requirements for disinfecting 1146
§ 3A:56-10.22 Personal hygiene requirements 1148
§ 3A:56-10.23 Health education and physical care for adolescents and infants 1149
§ 3A:56-10.24 Food and nutrition for infants 1150
§ 3A:56-10.25 Life skills development 1151

Title 3A, Chapter 57 -- Standards for Shelters for Victims of Domestic Violence 1152
§ 3A:57-1.1 Purpose 1153
§ 3A:57-1.2 Scope; applicability 1154
§ 3A:57-2.1 Client access to shelter 1155
§ 3A:57-2.2 Shelter site 1156
§ 3A:57-2.3 Physical plant 1157
§ 3A:57-2.4 Staff requirements 1158
§ 3A:57-2.5 Domestic violence shelter services 1159
§ 3A:57-2.6 Educational services 1160
§ 3A:57-2.7 Release of a minor 1161
§ 3A:57-2.8 Confidentiality 1162
§ 3A:57-2.9 Non-discrimination; clients and employees 1163
§ 3A:57-2.10 House rules 1164
§ 3A:57-3.1 Receipt of revenue by Department 1165
§ 3A:57-3.2 Delegation of responsibility to the Department of Children and Families 1166
§ 3A:57-3.3 Purpose of subchapter 1167
§ 3A:57-3.4 Scope of subchapter 1168
§ 3A:57-3.5 Funding priorities for marriage license fees 1169
§ 3A:57-3.6 Funding priorities for the Domestic Violence Victims' Fund 1170
§ 3A:57-3.7 Program fiscal responsibility 1171
Title 3A, Chapter 58 -- Children's Partial Care Programs 1172
§ 3A:58-1.1 Purpose, scope, and goals 1173
§ 3A:58-1.2 Definitions 1174
§ 3A:58-1.3 Population to be served 1176
§ 3A:58-1.4 Program services 1177
§ 3A:58-1.5 Services to children and youth 1178
§ 3A:58-1.6 Admission 1179
§ 3A:58-1.7 Intake 1180
§ 3A:58-1.8 Treatment planning 1181
§ 3A:58-1.9 Progress notes 1183
§ 3A:58-1.10 Medication administration 1184
§ 3A:58-1.11 Termination, discharge, and referral 1185
§ 3A:58-1.12 Staffing requirements 1186
§ 3A:58-1.13 Staffing responsibilities 1187
Title 3A, Chapters 59 through 69. (Reserved) 1190

Title 3A, Chapter 70 -- Displaced Homemaker Programs 1191
§ 3A:70-1.1 Purpose 1192
§ 3A:70-1.2 Scope 1193
§ 3A:70-1.3 Definitions 1194
§ 3A:70-2.1 Program requirements 1195
§ 3A:70-2.2 (Reserved) 1196
§ 3A:70-2.3 (Reserved) 1196
§ 3A:70-3.1 Procedures for funding 1197
Title 3A, Chapter 71 -- Address Confidentiality Program 1198
§ 3A:71-1.1 Purpose and scope 1199
§ 3A:71-2.1 Definitions 1200
§ 3A:71-3.1 Requirements for participation in ACP 1202
§ 3A:71-3.2 Certification 1203
§ 3A:71-4.1 Requirements for recertification 1204
§ 3A:71-4.3 Notice of recertification to provider agencies 1206
§ 3A:71-5.1 Withdrawal 1207
§ 3A:71-5.2 Termination 1208
§ 3A:71-5.3 Notice to State and/or local government agency 1209
§ 3A:71-6.1 Filing procedures 1210
§ 3A:71-6.2 Program manager response 1211
§ 3A:71-6.3 Commissioner's decision 1212
§ 3A:71-7.1 Request for confidentiality 1213
§ 3A:71-7.2 Provider agency requirements 1214
§ 3A:71-8.1 Disclosure 1215
§ 3A:71-9.1 Release to law enforcement agencies generally 1216
§ 3A:71-9.2 Requests for release of records to law enforcement agencies 1217
§ 3A:71-9.3 Emergency release of records 1218
§ 3A:71-9.4 Notice of release to program participant 1219
§ 3A:71-9.5 Confidentiality of records released 1220
§ 3A:71-10.1 Requirements of request for exemption 1221
§ 3A:71-10.2 Exemption determination 1222
§ 3A:71-10.3 Appeal of denial of request for exemption 1223
§ 3A:71-11.1 Confidentiality of voter records information 1224
§ 3A:71-11.2 Processing of protected voter records 1225
Title 3A, Chapter 72 -- Women's Micro-Business Program 1226

Title 3A, Chapters 73 through 79 (RESERVED) 1227
Title 3A, Chapter 80 -- Instructional Staff 1228
§ 3A:80-1.1 Purpose 1229
§ 3A:80-1.2 Scope 1230
§ 3A:80-1.3 Definitions 1231
§ 3A:80-1.4 Scope of tenure 1232
§ 3A:80-1.5 Eligibility 1233
§ 3A:80-1.6 Notice of reemployment; non-reemployment 1234
§ 3A:80-1.7 Performance assessment 1235
§ 3A:80-1.8 Disciplinary action--tenured staff 1236
§ 3A:80-1.9 Reduction in force 1237

Title 3A, Chapter 1 -- Organization of the Department of Children and Families

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 9:3A-7.f, 52:14B-3(a), and 52:14B-4(b).

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2016 d.126, effective September 16, 2016.

April 15, 2019, Technical Changes.

See: 48 N.J.R. 2129(a) and 51 N.J.R. 500(a)

CHAPTER EXPIRATION DATE:

Chapter 1, Organization of the Department of Children and Families, expires on September 16, 2023.

§ 3A:1-1.1 Mission of the Department

The mission of the Department is to ensure the safety, well-being and success of children and families in partnership with New Jersey's communities.

§ 3A:1-1.2 Description of the Department

(a) The Department of Children and Families consists of the following divisions and offices:

1. Division of Child Protection and Permanency;
2. Division of Children's System of Care;
3. Division of Family and Community Partnerships;
4. Division on Women
5. Office of Adolescent Services;
6. Office of Advocacy;
7. Office of Education;
8. Office of Licensing; and
9. Institutional Abuse Investigation Unit.

(b) The Department provides services to clients directly through its own staff, through contracts with various social service agencies, and by referrals to other social service agencies.

(c) In addition to the offices and units listed in (a) above, the Department also has various administrative units.

§ 3A:1-1.3 Communication with the Department

(a) Any person shall report a suspected abused or neglected child to the Department's State Central Registry at 1-877-NJABUSE (1-877-652-2873).

(b) Any person can obtain information about the Department and its services at www.nj.gov/dcf.

(c) Any person can receive program and funding updates by enrolling in the Department's mailing list at www.nj.gov/dcf/contact/mailinglist.html.

(d) Any person can request information or make submissions to the Department by:

1. 1.E-mailing the Department at askdcf@dcf.nj.gov;
2. 2.Writing to:

Department of Children and Families
PO Box 717
Trenton, New Jersey 08625; or

3. 3.Telephoning the Department at 1-877-543-7864 Monday through Friday from 8:30 A.M. to 4:30 P.M., excepting State holidays.

Title 3A, Chapter 2 -- Rulemaking Procedures

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 9:3A-7.f, 52:14B-3(2), and 52:14B-4(a)(1) and (3) and (f).

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2017 d.073, effective April 17, 2017.

April 15, 2019, Technical Changes.

See: 48 N.J.R. 2184(a), 49 N.J.R. 741(a), and 51 N.J.R. 500(a)

CHAPTER EXPIRATION DATE:

Chapter 2, Rulemaking Procedures, expires on April 17, 2024.

§ 3A:2-1.1 Purpose

The purpose of this chapter is to allow the Department of Children and Families to comply with New Jersey statutes and rules regarding rulemaking.

(a) The provisions of this chapter apply to:

1. Each petitioner who wants the Department to adopt a new rule or amend or repeal a current rule;

2. Each member of the public who wants the Department to extend the comment period on a rule proposed in the New Jersey Register;

3. Each member of the public who wants the Department to hold a public hearing on a rule proposed in the New Jersey Register; and

4. Each Department representative.

§ 3A:2-1.3 Definitions

The definitions in N.J.A.C. 10:133, Service Delivery General Provisions, are hereby incorporated into this chapter by reference.

§ 3A:2-2.1 Petition for rulemaking procedures

(a) An interested person may petition the Department to adopt a new rule or amend or repeal any rule of the Department. The petitioner shall submit the petition in writing to:

1. The Department of Children and Families, Office of Policy and Regulatory Development, PO Box 717, Trenton, New Jersey 08625;
2. The Department's rules e-mail account, rules@dcf.nj.gov; or
3. The electronic mailing list accessed at https://www.nj.gov/dcf/contact/email.html.

(b) The petitioner shall submit as part of the petition:

1. His or her name and a return address so that the Department can respond to the petition in writing;
2. The substance of the rulemaking being requested;
3. The reasons for the request; and
4. The statutory authority allowing the Department to take the requested action.

(c) The petitioner may provide the text of a new rule or amended rule for the Department's consideration.

(d) The Department shall submit each valid petition to the Office of Administrative Law in accordance with N.J.A.C. 1:30-4.1(c).

(e) The Department shall consider the content of the petition and determine whether to grant the petition, deny the petition, or deliberate further. The Department shall send the petitioner a written response to the petition within 60 days of the initial submission.

(f) The Department shall file a notice of action on each petition for publication in the New Jersey Register within 60 days, in accordance with N.J.A.C. 1:30-4.2.

§ 3A:2-3.1 Methods of publicizing a rule proposal

(a) The Department may provide additional publicity of a proposal in the New Jersey Register by:

1. Publishing a notice in one or more newspapers of general circulation when the rule proposal is of a general nature;
2. Publishing a notice in a trade, government, or professional publication when that method would be likely to best reach those affected by the rule;
3. Distributing a press release to the news media when that method would be likely to best reach those affected by the rule; or
4. Posting of the notice of proposal on the Department's website.

§ 3A:2-3.2 Requests for advanced notice

The Department shall send a notice of the notice of proposal to each person who has requested advanced notice of the Department's rulemaking.

§ 3A:2-4.1 Requests for extension of the comment period

(a) The Department shall extend by 30 days the opportunity for the public to comment in writing on a notice of proposal published in the New Jersey Register when at least 10 people have requested an extension in writing. The person making the request shall:

1. Submit the request within 30 days after publication of the notice of proposal in the New Jersey Register to the individual designated to receive comments on the proposal as published in the New Jersey Register; and

2. Use any method listed in N.J.A.C. 3A:2-2.1(a) to communicate with the Department.

§ 3A:2-5.1 Public hearings procedures

The Department shall conduct a public hearing on a proposed rulemaking if sufficient public interest is demonstrated by at least 30 people requesting a public hearing. The person making the request shall submit the request in writing by any method of communication with the Department listed in N.J.A.C. 3A:2-2.1(a) within 30 days after publication in the New Jersey Register.

§ 3A:2-6.1 Rules of practice posted

The Department shall maintain its policies, procedures, forms, and form instructions on its internet website, https://www.nj.gov/dcf/policy_manuals/toc.shtml.

Title 3A, Chapter 3 -- Client Information

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 9:6-8.10a, 9:6-8.14, 30:4-24.3, and 30:4C-4(h); and 45 CFR 205.50, 1355.21, and 1355.30.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2015 d.073, effective May 4, 2015.

See: 46 N.J.R. 1535(a), 46 N.J.R. 1731(a), 47 N.J.R. 896(b).

CHAPTER EXPIRATION DATE:

Chapter 3, Client Information, expires on May 4, 2022.

§ 3A:3-1.1 Purpose

The purpose of this chapter is to protect the confidentiality of client information received, developed, or maintained by the Division and state the conditions under which confidential client information may be disclosed, as well as the manner in which such information shall be disclosed.

§ 3A:3-1.2 Scope

(a) The provisions of this chapter shall apply to the following persons:

1. Each employee;

2. Each client applying for, receiving, or who has received child protection, child welfare, or permanency services;

3. Each person who discloses information to the Division;

4. Each person to whom the Division discloses confidential client information;

5. Each employee of the Division or the Department of Children and Families who has knowledge about or may disclose information regarding a child fatality or near fatality under investigation or investigated by the Division;

6. Each representative of the media and each member of the public who seeks information about a child fatality or near fatality investigated by the Division; and

7. Each Federal, State, or local government entity that requests information from the Division.

(b) The provisions of this chapter shall apply to instances of institutional abuse or neglect, unless otherwise specified by law.

§ 3A:3-1.3 Definitions

The definitions in N.J.A.C. 3A:10-1.3, Definitions, and 3A:11-1.3, Definitions, are hereby incorporated into this chapter by reference.

§ 3A:3-2.1 Protective service information

(a) The Division shall only disclose protective service information to a client, former client, parent, or legal guardian as permitted by N.J.S.A. 9:6-8.10a, subject to limitations of this chapter.

(b) The Division shall not disclose, confirm, or deny the identity of a reporter, unless:

1. The reporter gives prior written consent and the disclosure is not likely to endanger the life or safety of the reporter or other person or result in the discharge of, or discrimination against, the reporter, with respect to his or her employment;

2. Disclosure is permitted by statute or court rule and the disclosure is not likely to endanger the life or safety of the reporter or other person or result in the discharge of, or discrimination against, the reporter, with respect to his or her employment; or

3. Disclosure is required by statute or court rule.

(c) The Division shall not release the name or any other information identifying the person or entity who reported a child fatality or near fatality to the Division to the public or the media pursuant to N.J.S.A. 9:6-8.10a, whether or not the reporter gives prior written consent.

(d) Each Division representative shall base his or her determination as to whether the disclosure of the identity of a reporter would be likely to endanger the life or safety of the reporter or other person, or jeopardize the reporter's employment, upon the Division representative's and his or her supervisor's evaluation of the nature and seriousness of the case and an assessment of the propensity for violence and harm or discharge or discrimination.

(e) The Division shall disclose a client's protective service information to persons other than the client or the client's parent or guardian only as permitted by law, including N.J.S.A. 9:3-54.2 and 9:6-8.10a. The Division shall not permit any person to have unrestricted review of its records or general access to child protective information contained therein, except as otherwise provided by law or court order in accordance with N.J.S.A. 9:6-8.10a.b(6).

(f) The Division shall notify the police or local law enforcement authority of each substantiated incident of abuse or neglect involving a child who resides within their jurisdiction in accordance with N.J.A.C. 3A:10-7.5(e) and (f).

§ 3A:3-2.2 Child welfare information

(a) Each child welfare client is entitled to know what information is being collected, how it is used, and who has access to the information, except as limited in N.J.A.C. 3A:3-2.2(b) and (d), 2.3, and 2.5.

(b) No current or former client shall have unrestricted review of the Division records or general access to the information contained therein, except as otherwise provided by statute or court rule.

(c) A client currently or formerly receiving services may inspect or copy his or her own records as they relate to financial eligibility for or receipt of benefits, assistance, or services.

(d) The Division shall disclose to a current or former client other child welfare information from the client's records to the extent that the client makes a reasonable demonstration of his or her need to know. The Division shall consider the client's statement of the need for the information as such reasonable demonstration, unless the Division has compelling reason to withhold the requested information, such as when the Division determines that disclosure of such information would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of any other person. The determination shall be based on the Division representative's and his or her supervisor's professional judgment or that of another professional who has evaluated the nature and seriousness of the case and an assessment of the client's propensity for violence and harm as based on the client's known past behavior and threats against himself, herself, or others. If the Division denies the disclosure of the child welfare information to the client, the Division shall:

1. Give the client a verbal explanation of the reason for denial; and

2. Outline the reasons for denial in writing and make this a part of the client's record.

(e) Whenever there is reason to believe that a request for examination or copying of records is made in connection with a claim for compensation or damages against the State of New Jersey or State employees, the Attorney General shall be notified prior to honoring the request. The Office of Legal Affairs shall make the notification for the Division.

(f) The Division shall disclose child welfare information to persons other than the client or his or her parent or guardian only with the client's prior consent, except in an emergency, in which case, the Division shall advise the client of the request and disclosure at a later time. With the client's consent or in an emergency, the Division shall disclose information about that client, subject to the limitations and provisions set forth in 45 CFR 205.50, 1355.21, and 1355.30, and only to a person or agency representative who is subject to standards of confidentiality comparable to those of the Division and only to a party who presents a need to know the information requested, for example, information needed to provide medical, psychological, or social services to the child or family, except when restricted by law or N.J.A.C. 3A:3-2.3(a)1. No person shall have unrestricted review of the case records or general access to the information contained therein, except as otherwise provided by statute or court rule.

§ 3A:3-2.3 Third-party information

(a) The Division shall not disclose any of the following to any person, including clients, former clients, parents or guardians of current or former clients, and third parties:

1. Any third-party report, unless the Division receives prior written consent from the third party and release is not prohibited by law or regulation;

2. Any record containing information identifying a third-party source of information, for example, reporter, other family member, or collateral contact, unless the Division receives prior written consent from the third party and disclosure is not prohibited by law or regulation;

3. Unredacted, confidential information about another person, except with the express written consent of the other person and when not prohibited by law or regulation; or

4. Information, which would, if disclosed to the client, be likely to endanger any person's life or safety as based on the client's known past behavior and threats against himself, herself, or others. The Division representative shall base the determination on the Division representative's and his or her supervisor's evaluation of the nature and seriousness of the case and an assessment of the client's propensity for violence and harm to the child and others.

(b) When the Division seeks to use a third-party report to process a residential placement or other service, or apply for government benefits, the Division shall inform and obtain the consent of the third party at the time of request that the information may be disclosed to others to obtain a needed service or government benefit.

(c) The Division shall disclose third-party reports to an agency or person who is subject to standards of confidentiality comparable to those of the Division, such as a physician, psychotherapist, health agency, or mental health agency, when:

1. The Division has guardianship or custody of the child;

2. Disclosure of the information is necessary for the child's or parent's care, treatment, or supervision;

3. Disclosure is not prohibited by law or regulation;

4. The Division has considered the risk of harm to the child and others; and

5. The third party has given his or her consent, in accordance with (b) above.

§ 3A:3-2.4 Provision of information to minor clients

(a) A current or former minor client may receive information contained in the Division's case record as permitted by N.J.A.C. 3A:3-2.1, 2.2, and 2.3 through a request made by:

1. The minor client's parent, guardian, or legal counsel, including a law guardian, except when the circumstances in (c) below apply; or

2. The current or former minor client having a legal right to access the information without parental consent, including minors permitted access pursuant to provisions of N.J.S.A. 9:17-1 et seq.

(b) When providing information to a minor client, the Division shall present that information in a manner determined by the Division to be consistent with and appropriate to the minor client's age or condition, to enable the minor client to understand the basis for the Division's involvement, the minor client's ability to cope with the information, and, for a current minor client, the minor client's ability to participate in the development, discussion, or implementation of the case plan pursuant to N.J.S.A. 9:6-8.10a.c. Information that may be disclosed on behalf of a minor client is limited in the same manner as described in N.J.A.C. 3A:3-2.1 through 2.8. The Division may make an exception to the parental request requirement when the requirement of parental involvement would interfere with the child's right to privacy (for example, a female child who has had a pregnancy or abortion of which her parent has no knowledge).

§ 3A:3-2.5 Provision of information to adult adoptees

All court records and information relating to adoption proceedings are sealed upon the legal finalization of the adoption pursuant to N.J.S.A. 9:3-52. Since the Division's records contain sealed court records, the Division shall treat these records as confidential. The Division shall disclose to an adult adoptee non-identifying information available in the Division's records in accordance with N.J.A.C. 3A:50-5.9(b)2. The Division shall disclose identifying information to an adult adoptee about any birth family member or other person who has given his or her written consent to the Division.

§ 3A:3-2.6 Disclosure within the Division, the Department, the Department of Law and Public Safety, Division of Law, and the court

(a) Division employees shall disclose personal client information to other Division employees and to employees of the Division of Law within the Department of Law and Public Safety only to the extent that such disclosure is necessary for the execution of those persons' official duties. Division employees shall redact client information from any record used for training.

(b) Staff of the Department's Office of Legal Affairs, the Commissioner or Chief of Staff of the Department of Children and Families or each Director of an office or Division of the Department of Children and Families shall have the authority to request and receive all information about Division clients.

(c) The Division shall disclose requested client information to a Deputy Attorney General, Department of Law and Public Safety, Division of Law, or any other attorney representing the Division.

(d) The Division Director or designee may, and upon written request shall, release records and reports to any division or unit in the Department authorized to care for, treat, or supervise a child who is the subject of an abuse or neglect report, or a parent or other person who is responsible for the child's welfare, or both, when the information is needed in connection with the provision of care, treatment, or supervision of a child or parent or other person pursuant to N.J.S.A. 9:6-8.10a.b(5).

(e) The Division shall allow the Division of Medical Assistance and Health Services' quality control reviewers to review its records to the extent necessary to confirm a child's Medicaid eligibility, in accordance with 45 CFR 74.24 and 1340.14(i)(5). The quality control reviewers shall not photocopy any materials from a Division case record nor have unrestricted review of records or general access to a case record.

(f) The Division shall release to the court its records about a juvenile before the Superior Court, Chancery Division, Family Part, pursuant to 42 U.S.C. § 5633(a)(26).

§ 3A:3-2.7 Disclosure of information to other government entities

(a) A Federal, State, or local government entity requesting information regarding an abuse or neglect report, when the information is being requested for a matter other than the investigation of a report of abuse or neglect, shall submit a written request to: Division of Child Protection and Permanency, PO Box 717, Trenton, NJ 08625-0717.

(b) The request shall include:

1. A citation identifying the requester's legal authority to receive the information;

2. The specific information that is being requested;

3. The purpose for which the information will be used; and

4. A statement indicating that the requesting government entity will keep the information confidential.

(c) The following safeguards are applicable when information is requested by a government entity. The Division shall disclose only that information that:

1. The requestor is legally permitted to receive;

2. Is not likely to endanger the life, safety, or physical or emotional well-being of a child or the life or safety of any other person;

3. Is not likely to compromise the integrity of a child protection investigation or a civil or criminal investigation or judicial proceeding;

4. Is not deemed confidential by Federal or State law other than N.J.S.A. 9:6-8.10a;

5. Does not contain the name of the reporter or any other information which could readily identify the reporter, unless the reporter gives prior written consent in accordance with N.J.A.C. 3A:3-2.1(c); and

6. Does not contain the name of or any information which could readily identify the Division representative or representatives assigned to the child protection investigation or the management of an open case.

(d) A government entity receiving information pursuant to N.J.S.A. 9:6-8.10a shall keep the information confidential and shall not redisclose the information. A violation of this confidentiality requirement shall be subject to criminal sanctions pursuant to N.J.S.A. 9:6-8.10b.

§ 3A:3-2.8 Requests for information

(a) Each person making an inquiry or request for client information shall put the request in writing, except as allowed in (d) below. The following procedures shall be observed:

1. An agency shall make its request on official agency letterhead.

2. An individual person making a request shall include his or her address or telephone number which can be verified.

3. Any person requesting client information shall include a consent form signed by the client or shall indicate the reason he or she needs to know the information.

(b) The Division shall determine whether the person requesting the information can receive the information pursuant to statute and to the provisions of this chapter.

(c) The Division shall not disclose client information over the telephone, including whether or not a person is or was known to the Division, except as authorized in (d) below.

(d) When information is urgently needed, the Division shall disclose the information after verifying the caller's identity, determining that the caller is authorized to receive the information pursuant to N.J.S.A. 9:6-8.10a, and determining that the caller has made a reasonable demonstration of the need to know the information and in consideration of the risk of harm to the child and others.

§ 3A:3-3.1 Authority for disclosure of information

The Division may release information to the public regarding a child fatality or near fatality when the fatality or near fatality was the result of abuse or neglect, pursuant to N.J.S.A. 9:6-8.10a.f.

§ 3A:3-3.2 Who may disclose information to the media or a member of the public about a child fatality or near fatality

The Department of Children and Families' Office of Communications shall direct and control the release of information to the media about a child fatality or near fatality investigated by the Division or determined by the Division to be the result of abuse or neglect. Information shall be disclosed by the Director or designee or a representative of the Department's Office of Communications. No other representative of the Division or the Department shall disclose information to the media or a member of the public about a child fatality or near fatality unless specifically authorized to do so by the Director or designee or the Commissioner of the Department of Children and Families.

§ 3A:3-3.3 Procedures for the request and provision of information related to a fatality or near fatality

(a) Representatives of the media may request information about a child fatality or near fatality either verbally or in writing. The media representative shall direct the request to the Department of Children and Families' Office of Communications. The Director of the Division of Child Protection and Permanency or a representative of the Department of Children and Families' Office of Communications shall provide information verbally to a representative of the media about a child fatality or near fatality, within the parameters established by this chapter, upon confirming that the requester is a representative of the media.

(b) A member of the public may request information about a child fatality or near fatality in writing to the Office of the Director, Division of Child Protection and Permanency. If the requester claims to represent an agency, he or she shall make the request for information on official agency letterhead in accordance with N.J.A.C. 3A:3-2.8(a)1. The Director or designee shall respond, in writing, within the parameters established by this chapter, to a written request from a member of the public for information about a child fatality or near fatality.

§ 3A:3-3.4 Information that shall not be disclosed to the media or a member of the public about a child fatality or near fatality

(a) Pursuant to N.J.S.A. 9:6-8.10a.f, the following shall not be disclosed to the media or public in relation to a child fatality or near fatality:

1. Information that would likely endanger the life, health, safety, or physical or emotional well-being of a child or the life or safety of any other person;

2. Information that would compromise the integrity of or interfere with a child protection investigation, a civil or criminal investigation or a judicial proceeding. If a criminal investigation is in progress or pending, the Director of the Division of Child Protection and Permanency or designee shall contact the county prosecutor before releasing any information to the media or a member of the public about the incident, to determine what information can be disclosed, if any, based on the status of the criminal investigation;

3. Information deemed confidential by Federal law or State law, other than N.J.S.A. 9:6-8.10a;

4. The name of, or any identifying information about, the reporter of abuse or neglect that resulted in a fatality or near fatality, even when the reporter gives written consent to disclose his or her identity in accordance with N.J.A.C. 3A:3-2.1(c);

5. The name of any Division representative assigned to the child protection investigation or the management of the case;

6. Information concerning any disciplinary actions taken against a Division representative as a result of or related to the incident or the handling of the case by the Division representative; or

7. Information obtained from another agency or entity that is investigating a child fatality or near fatality on its own or in cooperation with the Division, such as the police, the county prosecutor, or the medical examiner.

(b) Any person denied information as stated in (a) above may petition the Chancery Court for release of the information.

§ 3A:3-3.5 Information that shall be disclosed to the media or a member of the public during the child protection investigation

(a) Unless prohibited by N.J.S.A. 9:6-8.10a or N.J.A.C. 3A:3-3.4, and upon the request of the media or a member of the public in accordance with N.J.A.C. 3A:3-3.3(a) and (b), information about a child fatality or near fatality that shall be disclosed upon request to a representative of the media or a member of the public during the child protection investigation, prior to the child protective investigator's determination of the finding, shall include and shall be limited to the following:

1. The name, age, and sex of the child victim;

2. The date of the incident and the date of the call regarding the incident to the Division;

3. The living arrangement of the child victim at the time of the incident, and, for a near fatality, the child victim's current living arrangement, if different. The Director or the Department's Office of Communications or designee shall:

i. Disclose the type of setting, such as the child's own home, a resource home, or an institution;

ii. Provide the name of the institution, if the incident occurred in an institution; and

iii. Not provide information containing the out-of-home placement provider's or other caregiver's name, address and other identifying information or whereabouts if the incident did not occur in an institution;

4. Information about other possible child victims. The Director or the Department's Office of Communications or designee shall disclose:

1. The names of other possible child victims only when they are also fatalities or near fatalities which the child protective investigator has reasonable cause to believe resulted from abuse or neglect;
2. The relationship of each child to the child victim; and
3. The type of living arrangement of each child under the conditions specified in (a)3i, ii and iii above;

5. The nature of the incident. The Director or designee or a representative of the Department's Office of Communications shall disclose:

a) The nature of the alleged abuse or neglect, including, but not limited to, physical abuse, neglect, or sexual abuse;
b) The nature of the child victim's injuries, medical condition, and prognosis; and
c) The name and identifying information about the alleged perpetrator and other specific information about the circumstances of the incident only after the child protective investigator concludes the child protection investigation, substantiates abuse or neglect, and confirms a perpetrator;

6. To the extent it is pertinent to the abuse or neglect that led to the fatality or near fatality, information regarding the status of the Division's involvement with the child victim and his or her family prior to the child fatality or near fatality, including:

1. Whether the case was in active status at the time of the child fatality or near fatality, in closed status or never known to the Division;
2. The Division office or offices responsible for each prior case opening;
3. The date and disposition of each prior call;
4. The date of each prior case opening and closing;
5. The types of services provided by or through the Division, including any referral to a service not provided by the Division, without disclosing the name of any service provider; and
6. The date and approximate time of the Division representative's last contact with the child victim prior to the incident, and whether the contact was in person or by telephone;

7. Division action taken to protect the child victim and other possible child victims within the family or the household; and

8. The name of the Division office supervising the case or conducting the child protection investigation.

§ 3A:3-3.6 Information that shall be disclosed about a child fatality or near fatality not caused by abuse or neglect

(a) The Director, the Department's Office of Communications or a designee shall disclose only the following information to the media or a member of the public, in addition to the information previously disclosed during the child protection investigation in accordance with N.J.A.C. 3A:3-3.5, if the child protective investigator determines that the child fatality or near fatality was not the result of a substantiated incident of abuse or neglect:

1. The Division's finding of unfounded; and
2. The date of the Division's finding.

§ 3A:3-3.7 Information that shall be disclosed about a child fatality or near fatality that was the result of abuse or neglect

(a) If a child protection investigation determines that the child fatality or near fatality was the result of a substantiated incident of abuse or neglect, unless prohibited by N.J.S.A. 9:6-8.10a or N.J.A.C. 3A:3-3.4 or withheld at the request of the county prosecutor, the Director or designee or a representative of the Department's Office of Communications shall disclose the following information to the media or a member of the public, as relevant to the given incident or the child's condition, in addition to the information disclosed during the child protection investigation in accordance with N.J.A.C. 3A:3-3.5:

1. The child's current medical condition or the date and cause of the child's death;

2. The child's current living arrangement, with this information provided under the same limitation as imposed by N.J.A.C. 3A:3-3.5(a)3i, ii, and iii;

3. Details about the child protection investigation of the incident, including, but not limited to:

i. The type of abuse or neglect that was substantiated;

ii. Where the incident occurred; and

ii. The name of the perpetrator and his or her relationship to the child victim;

4. Whether the child protection investigation determined that another child was abused or neglected at the time of the incident. The name of that child shall not be disclosed unless that child was a child fatality or near fatality as well; and

5. To the extent it is pertinent to the abuse or neglect that led to the fatality or near fatality, information regarding the types of services provided by or through the Division, both prior and subsequent to the child fatality or near fatality, including service referrals given on behalf of the child victim, as well as the services or referrals given on behalf of the child victim's surviving family members, except as otherwise prohibited by law. No employee shall disclose the name of a service provider.

§ 3A:3-3.8 Pertinence of information subject to release

(a) The Division shall determine the pertinence of information subject to release under N.J.A.C. 3A:3-3.4(a)6 or 3.6(a)5 on a case by case basis. Information shall generally be considered pertinent and subject to release in accordance with the relevant authority, if that information:

1. Relates directly to the evaluation, investigation, or service provision related to the act or acts of abuse or neglect resulting in the fatality or near fatality;

2. Relates to services or referrals offered or provided to the alleged perpetrator or child victim of the act or acts of abuse or neglect resulting in the fatality or near fatality;

3. Relates to prior or subsequent acts or alleged acts of abuse or neglect, which have a commonality of persons or conduct with the act or acts of abuse or neglect that led to the fatality or near fatality, or which may reasonably be construed as demonstrating a pattern or progression of abuse or neglect that culminated in the act or acts of abuse or neglect resulting in the fatality or near fatality; or

4. Otherwise assists the media or the public to understand the Department's awareness of and response to the circumstances resulting in the fatality or near fatality.

(b) Nothing in this section shall be construed to compel or permit the release of information not subject to release under law or any other part of this chapter.

§ 3A:3-3.9 Ability to seek court relief if denied information about a child fatality or near fatality

If the Division or the Department of Children and Families' Office of Communications denies the media or a member of the public access to information about a child fatality or near fatality under this chapter, he or she may seek disclosure of the information through the Chancery Division of the Superior Court, pursuant to N.J.S.A. 9:6-8.10a.f.

§ 3A:3-4.1 (Reserved)

§ 3A:3-4.2 (Reserved)

§ 3A:3-4.3 (Reserved)

§ 3A:3-4.4 (Reserved)

§ 3A:3-4.5 (Reserved)

§ 3A:3-4.6 (Reserved)

§ 3A:3-4.7 (Reserved)

§ 3A:3-5.1 (Reserved)

§ 3A:3-5.2 (Reserved)

§ 3A:3-5.3 (Reserved)

Title 3A, Chapter 4 -- Department of Children and Families Child Fatality and Near Fatality Review Board

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 9:6-8.88 through 9:6-8.96.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2015 d.091, effective May 1, 2015.

See: 46 N.J.R. 2391(a), 47 N.J.R. 1263(a).

CHAPTER EXPIRATION DATE:

Chapter 4, Department of Children and Families Child Fatality and Near Fatality Review Board, expires on May 1, 2022.

§ 3A:4-1.1 Purpose

The purpose of this chapter is to describe the organization, functions and activities of the Child Fatality and Near Fatality Review Board, in the New Jersey State Department of Children and Families, as well as the efforts of the Department to support the Board.

§ 3A:4-1.2 Scope

(a) These rules apply to:

1. Each member of the Child Fatality and Near Fatality Review Board;

2. Each member of the Board's local or regional community-based teams, if it chooses to establish such teams;

3. Each representative of the Department of Children and Families and the Division of Child Protection and Permanency;

4. The State Medical Examiner; and

5. Any other person participating in the Board's functions and responsibilities.

§ 3A:4-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings:

"Board" means the Child Fatality and Near Fatality Review Board.

"Casework supervisor" means a Supervising Family Service Specialist I whose job responsibility includes, but is not limited to, supervising subordinate supervisors in the delivery of protective and child welfare services in the Division.

"Child" means any person under the age of 18.

"Child abuse and neglect" means the same as the definition of "abused or neglected child" at N.J.A.C. 3A:11-1.3.

"CCAPTA" means New Jersey Comprehensive Child Abuse Prevention and Treatment Act, N.J.S.A. 9:6-8.88 et seq.

"Department" means the Department of Children and Families.

"Division" means the Division of Child Protection and Permanency in the Department of Children and Families.

"Fatality" means death.

"Full review" means a review of all available case-related material by the Board or its local or regional community-based team at a duly convened meeting.

"Governmental support systems" means public entities providing services to children and their families, including, but not limited to, the Division of Child Protection and Permanency and other agencies within the Department of Children and Families, the Department of Health, the Office of the Attorney General, and the Office of the Public Defender.

"Near fatality" means a serious or critical condition, as certified by a physician, in which a child suffers either a permanent mental or physical impairment, a life-threatening injury or a condition that creates a probability of death within the foreseeable future.

"Team" means a local or regional community-based team established by the Child Fatality and Near Fatality Review Board.

§ 3A:4-2.1 Purpose of the Board

(a) CCAPTA states the several part purpose of the Board as follows:

1. The Board shall review fatalities and near fatalities of children in New Jersey in order to:

i. Identify their causes, their relationship to governmental support systems, as determined relevant by the Board, and methods of prevention;

ii. Describe trends and patterns of child fatalities and near fatalities in New Jersey;

iii. Identify risk factors and their prevalence in child fatalities and near fatalities;

iv. Evaluate the response of the government support system to children in families who are considered to be at high risk and to offer recommendations for improvement in those responses;

v. Identify high risk groups relative to child abuse and neglect, or fatality, in terms that are compatible with the development of public policy;

vi. Improve the sources of data collection by developing protocols for autopsies, death investigations, and the complete recording of cause of death on the death certificate;

vii. Provide case consultation to individuals or agencies represented by the Board; and

viii. Make recommendations for system-wide improvements in services to prevent fatalities and near fatalities among children;

2. The Board shall identify the fatalities of children due to unusual circumstances when:

i. The cause of death is undetermined;

ii. Substance abuse may have been a contributing factor;

iii. Homicide is the result of child abuse or neglect;

iv. Child abuse or neglect may have been a contributing factor;

v. There is malnutrition, dehydration, or medical neglect or failure to thrive;

vi. There is sexual abuse;

vii. There is head trauma, fractures or blunt force trauma without obvious innocent reason, such as auto accidents;

viii. There is suffocation or asphyxia;

ix. There are burns without obvious innocent reason such as auto accident or house fire;

x. There is a suicide;

xi. Sudden Infant Death Syndrome (SIDS) is suspected; and

xii. Sudden Unexplained Death Syndrome (SUDS) is suspected; and

d) The Board shall also identify a fatality or near fatality of any child whose family, currently, or within the last 12 months, was receiving services from the Division.

§ 3A:4-2.2 Composition and terms

(a) CCAPTA, as stated in N.J.S.A. 9:6-8.89, designates the members of the Board as follows:

1. The Board shall consist of the following members, who shall serve ex officio:

i. The Commissioner of Children and Families, or designee;

ii. The Commissioner of Health, or designee;

iii. The Director of the Division of Child Protection and Permanency, or designee;

iv. The Attorney General, or designee;

v. The Superintendent of the State Police, or designee;

vi. The State Medical Examiner; and

vii. The Chairperson or Executive Director of the New Jersey Task Force on Child Abuse and Neglect; and

2. There also shall be six public members appointed by the Governor, including:

i. A representative of the New Jersey Prosecutors' Association;

ii. A Law Guardian;

iii. A pediatrician with expertise in child abuse and neglect;

iv. A psychologist with expertise in child abuse and neglect;

v. A social work educator with experience and expertise in the area of child abuse or a related field; and

vi. A person with expertise in substance abuse.

(b) Of the public members first appointed, three shall serve for a period of two years and three shall serve for a period of three years; thereafter, public members shall serve for a period of three years.

(c) The Governor shall appoint a public member to serve as chairperson of the Board.

§ 3A:4-2.3 Provision of staff and information to the Board

(a) The Department shall dedicate professional staff to the Board to carry out its duties.

(b) The State Medical Examiner shall notify the Board of each child fatality.

(c) The Division shall notify the Board, and forward to the Board a copy of the case-related material, of each fatality and near fatality among children whose family, currently or within the last 12 months, was receiving services from the Division, as well as each child fatality where the Division has reason to believe that child abuse or neglect may have been a contributing factor.

(d) Upon request, the Department of Health shall notify the Board of any child fatality.

§ 3A:4-2.4 Division case-related material

(a) Case-related material shall include, as applicable, the following documents:

1. The child's case record with the Division;

2. Copies of Division Service Information System and NJ SPIRIT data;

3. Police, prosecutor, fire, physician, psychologist, psychiatric and hospital records, as applicable and permissible; and

4. Autopsy results and death certificate, when available.

(b) Case-related material shall also include information about:

1. The child and his or her family and household;

2. The nature and circumstances of the incident;

3. The nature of Division or Department involvement with the child, family, or household;

4. A summary of Department or other agency responses to the death or incident;

5. A summary of the circumstances leading to the child's death or the incident; and

6. Recommendations regarding the family, the alleged perpetrator, and Division or Department operations.

§ 3A:4-2.5 Meetings

(a) The Board shall establish a schedule for regular meetings for itself and its local or regional community-based teams. Additional meetings may be scheduled at the discretion of the chairperson.

(b) The purpose of the meetings is to:

1. Identify all cases referred to the Board according to the criteria in N.J.A.C. 3A:4-2.1(a)1 and 2;

2. Determine each case that shall receive a full review by the Board and local or regional community-based team appointed by the Board;

3. Conduct full case reviews or review reports received from the local or regional community-based teams; and

4. Conduct any other business necessary to carry out the overall purpose of the Board, as listed in N.J.A.C. 3A:4-2.1.

(a) The Board shall record the name, age, date of birth, place of death or pronouncement of death, date and time of death, and circumstances surrounding the death in a confidential master file.

(b) The Board shall record the name, age, date of birth, place of incident, and circumstances surrounding the near fatality in a confidential master file.

(c) The confidential master file shall be the only file maintained by the Board that contains the name of the child and shall not be subject to discovery.

(d) Consistent with N.J.S.A. 9:6-8.10a(d), information in the confidential master file may be used by the chairperson of the Board to refer an individual case, including the Board's deliberations and conclusions, to an appropriate agency engaged in a bona fide research purpose, provided, however, that no names, or other information identifying persons named in the file shall be made available to the researcher unless it is absolutely essential to the research purpose and provided further that the approval of the Commissioner of Children and Families or his or her designee shall first have been obtained.

(e) Except as provided in (d) above, the deliberations and conclusions of the Board and its local or regional community-based teams, related to a specific case, shall be confidential.

§ 3A:4-3.1 Types of cases receiving full review

(a) The Board or its local or regional community-based teams may conduct a full review of each of the following situations:

1. Each fatality and near fatality of a child whose family, currently, or within the last 12 months, was receiving services from the Division;

2. Each child fatality where information available to the Board indicates that child abuse or neglect may have been a contributing factor; and

3. Any other child fatality or near fatality identified by the Board as significant to determining appropriate governmental supports and methods of prevention.

§ 3A:4-3.2 Requirements for full reviews

(a) Once the Board determines that a case is appropriate for a full review, it will establish a time frame within which the full review and a corresponding summary record containing findings and recommendations shall be completed.

(b) The Board will complete the full review and summary record itself, or, at its discretion, assign these functions to a local or regional community-based team, as described in N.J.A.C. 3A:4-3.3.

(c) The summary records that are prepared by the Board and local or regional community-based teams on each reported case shall be free of information that would identify the child.

(d) The deliberations and conclusions of the Board and local or regional community-based teams shall not supersede or replace the conclusions or opinions of any agency that contributes information from its own records.

§ 3A:4-3.3 Local or regional community-based teams

(a) The Board may establish local or regional community-based teams to complete the review of fatalities or near fatalities among children identified by the Board.

(b) If the Board chooses to establish local or regional community-based teams, each team will be formed with a dual function to review information regarding:

1. The fatality and near fatality of any child whose family, currently, or within the last 12 months, was receiving services from the Division and of any child fatality where information available to the Board indicates that child abuse or neglect may have been a contributing factor; and

2. Other child fatalities due to unusual circumstances.

(c) The Board may choose to establish more than two local or regional community-based teams.

(d) Each local or regional community-based team shall include, at a minimum:

1. A person experienced in prosecution;

2. A person experienced in local law enforcement investigation;

3. A medical examiner;

4. A public health advocate;

5. A physician, preferably a pediatrician; and

6. A casework supervisor from a Division local office.

(e) The local or regional community-based teams shall continue to function at the discretion of the Board.

§ 3A:4-4.1 Powers of the Board

(a) The Board may subpoena and review records that pertain to the child, except as provided by any statute, regulation or Executive Order relating to the confidentiality of criminal investigations and criminal investigative files. Records subject to subpoena and review shall include, but are not limited to, private medical and hospital records, school records, mental health records, and other records that may be deemed pertinent to the review process and necessary for the formulation of a conclusion by the Board. Records obtained by the Board shall not be subject to subpoena.

(b) The Board is entitled to call to its assistance and avail itself of the services of employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available for the purposes of reviewing a case.

(c) The Board may seek the advice of experts, such as persons specializing in the fields of pediatric, radiological, neurological, psychiatric, orthopedic, and forensic medicine; nursing; psychology; social work; education; law enforcement; family law; substance abuse; child advocacy; or other related fields, if the facts of a case warrant additional expertise.

(d) If the Board has reasonable cause to believe that the death is the result of child abuse or neglect, or has reasonable cause to believe that the death is the result of an ongoing hazard to other members of the household, then the Board shall notify or shall verify that notification has been made to the Division, who in turn will contact the county prosecutor of the county wherein the death occurred or was pronounced.

(e) The Board may solicit and receive grants and other funds made available from a governmental, public, private, nonprofit, or for-profit agency, including funds made available under any Federal or State law, regulation or program.

§ 3A:4-4.2 Immunity

A member of the Board and local or regional community-based team shall not be liable for any civil damages as a result of providing, in good faith, any reports, records, opinions or recommendations pursuant to N.J.S.A. 9:6-8.94.

§ 3A:4-5.1 Annual report

(a) The Board shall issue an annual report to the Governor and Legislature, covering its activities for the year.

(b) The Board shall make the annual report available to the public.

§ 3A:4-5.2 Content of the annual report

(a) The Board's annual report shall include:

1. The number of child deaths, causes of death and trends among unusual deaths and near fatalities;

2. The number of cases reviewed and specific non-identifying information regarding cases of particular significance;

3. Risk factors and governmental systems available and/or responsible for support;

4. Recommendations for improving sources of data collection;

5. Recommendations for achieving better coordination and collaboration among State and local agencies; and

6. Recommendations for system-wide improvements in services to prevent fatalities and near fatalities among children.

Title 3A, Chapter 5 -- Dispute Resolution

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 9:3A-7g, 9:3A-9, 30:4C-4.d, and 52:14B-9.1.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2016 d.079, effective June 6, 2016.

See: 48 N.J.R. 110(a), 48 N.J.R. 1369(a).

CHAPTER EXPIRATION DATE:

Chapter 5, Dispute Resolution, expires on June 6, 2023.

§ 3A:5-1.1 Purpose

(a) The purposes of this chapter are to:

1. Describe the procedures for a client, or specified service provider of the Division, to resolve disputes with the Division of Child Protection and Permanency;

2. Identify who may request a dispositional review and describe the procedures for a dispositional review;

3. Identify who may appeal certain Division actions to the Office of Administrative Law (OAL); and

4. Describe the procedures to request an administrative hearing before the OAL, except as limited by N.J.A.C. 3A:5-2.5, 4.1, 4.2 and 4.3.

§ 3A:5-1.2 Scope

(a) These rules describe the preliminary efforts provided by the Division to resolve disputes regarding:

1. Services provided by or through the local offices;

2. A finding of substantiated child abuse or neglect made by the Division or the Office of the Public Defender acting as the Division's agent in conflict matters in child protective service investigations; and

3. Status issues for service providers of the Division pursuant to N.J.S.A. 30:4C-12.1, and in accordance with N.J.A.C. 3A:20.

(b) These rules describe the informal procedures available to resolve disputes through the Division's dispositional reviews.

(c) These rules also describe the procedures for requesting formal resolution through the OAL for contested and uncontested matters, in accordance with N.J.A.C. 1:1.

(d) An issue related to the denial, suspension, conditional approval, revocation or closure of an agency or program licensed, certified or approved by the Office of Licensing, Department of Children and Families, may be appealed in accordance with N.J.A.C. 3A:50-2.3 and 2.4, 3A:52-2.5, 3A:51-2.4(d) and 2.5, 3A:53-1.6, 3A:54-5.8, 3A:55-2.4 or 3A:56-2.4 and, consequently, are not covered by these rules.

(e) These rules do not govern employee personnel matters.

(f) These rules do not govern issues that are before, or have been resolved by, a trial court with jurisdiction over the matter under dispute.

(g) These rules do not govern questions of fact relating to contractual activities.

(h) These rules do not govern across the board service reductions or terminations that are the result of reductions in Federal or State funding.

§ 3A:5-1.3 Definitions

(a) The definitions in N.J.A.C. 3A:14-1.3 and 3A:11-1.3 are hereby incorporated by reference. In addition, the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Administrative hearing" means a hearing held by the Office of Administrative Law (OAL) pursuant to N.J.S.A. 52:14B-9 et seq. and 52:14F-1 et seq., and N.J.A.C. 1:1.

"Administrative Hearings Unit" or "AHU" is the hearings unit of the Department responsible for monitoring and transmitting contested and uncontested cases, in accordance with N.J.A.C. 1:1-8.2 and 21.1, to the OAL.

"Agency decision" means any decision of the Division made as the result of a dispositional review and which is not a final agency decision.

"Appeal" means a request for modification or reversal of a Division action.

"Appellant" means the party who is requesting a reversal or modification of a Division action.

"Business days" means the five working days of a week, other than Saturday, Sunday and legal holidays.

"Department" means the Department of Children and Families.

"Dispositional review" means an independent examination of a Division action that is conducted by a Review Officer through a record and document review or by examining relevant records and documents and either convening a meeting of the relevant parties in the Division action under dispute or conducting a telephone conference.

"Division action" means a decision, plan or conduct by a Division representative, an Institutional Abuse Investigation Unit employee or an employee of the Office of the Public Defender acting as the Division's agent in conflict matters within the scope of the individual's official duties, which results in a "Division service issue," a "status issue," or which may result in a contested case as specified in N.J.A.C. 3A:5-4.3(a), but does not include a personnel action.

"Division service issue" means a Division action affecting a case goal or a case plan necessary to achieve a case goal, as allowed in N.J.A.C. 3A:12-1, and limited to: the denial of a request for, or the reduction, suspension, or termination by a Division representative of the following services, as defined in N.J.A.C. 3A:11-1.3: adoption subsidy, child care, discharge planning and aftercare services, domestic violence services, CP&P Legal Guardianship Subsidy Program, educational support, emergency maintenance service, family preservation services, health care services, homemaker service, mentor services, out-of-home placement, post-adoption services, pre- and post-natal services, psychological/therapeutic services, respite care, self-sufficiency skills, substance use disorder services, Title XIX Medicaid, or transportation; parent and child visitation as described in N.J.S.A. 9:6B-4 and N.J.A.C. 3A:15-1; or the failure of a Division representative to act with reasonable promptness on a request for any of the above services.

"Final agency decision" means:

1. A final decision by the Commissioner or designee pursuant to N.J.S.A. 9:3A-6 that adopts, rejects or modifies an initial decision by an administrative law judge;

2. An initial decision by an administrative law judge that becomes a final agency decision by operation of N.J.S.A. 52:14B-10;

3. A final decision by the Review Officer, after a dispositional review conducted in accordance with these rules;

4. A Division action that becomes a final agency decision when the appellant does not choose to exercise his or her right to further dispute resolution; or

5. A final decision by the Commissioner or designee granting summary disposition and affirming a Division action.

"Finding" means the final determination made by a child protective investigator and his or her supervisor of the results of a child protection investigation.

"Initial decision" means the administrative law judge's recommended findings of fact, conclusions of law and disposition, based upon the evidence and arguments presented during the course of the hearing and made a part of the record which is sent to the agency head for a final decision, as defined in N.J.A.C. 1:1-2.1.

"Institutional Abuse Investigation Unit (IAIU)" means the Department unit charged with the responsibility of investigating allegations of abuse or neglect in out-of-home settings, excluding CP&P-operated facilities.

"Motion for Summary Disposition" means a motion that is prepared when no material facts are in dispute. If granted by the Commissioner or designee, a Motion for Summary Disposition denies the request for an OAL hearing and requires the Commissioner or designee to determine whether the Division action resulting from the undisputed facts is proper based on applicable law, regulations and policies, and accordingly to issue a final agency decision, affirming, reversing or modifying the Division action. If a motion for summary disposition is denied by the Commissioner or designee, the matter is transmitted to the OAL.

"Office of Administrative Law (OAL)" means the office in, but not of, the Department of the Treasury, in which an administrative law judge presides over administrative hearings, established under N.J.S.A. 52:14F-1 et seq.

"Record and document review" means a type of dispositional review, conducted by a Review Officer, of the relevant documents and records related to a Division action under dispute.

"Reduction" means the Division action about a service determined by the Division to be necessary for the achievement of the case goal, which Division action causes the client to receive fewer hours or units of a service. Reduction does not include a change in provider or location of the service or a change in the schedule of the service that does not also cause fewer hours or units of the service.

"Relative" means a birth or adoptive brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, first cousin, niece, nephew, as well as relatives of half blood or marriage and those denoted by the prefixes "grand" and "great," including grandparent or great-grandparent, and limited to those having a history of being active in planning for the child's future.

"Resource parent" means a person licensed pursuant to N.J.S.A. 30:4C-27.3 et seq.

"Review Officer" means a Department representative who was not involved in the Division actions being appealed and who is charged with the responsibility of conducting a dispositional review as authorized by these rules.

"Service provider" means:

1. Each of a child's relatives who is assessed for his or her willingness and ability to assume care of the child pursuant to N.J.S.A. 30:4C-12.1;

2. A relative or family friend caregiver or applicant in the CP&P Legal Guardianship Subsidy Program; or

3. A resource parent.

"Sibling" means birth brother or sister, half brother or sister, legal brother or sister and stepbrother or sister.

"Status issue" means:

1. The determination that a child's relative is unwilling or unable to assume the care of the child pursuant to N.J.S.A. 30:4C-12.1(b); or

2. The denial or termination of a relative or family friend caregiver to participate or continue to participate in the CP&P Legal Guardianship Subsidy Program in accordance with N.J.A.C. 3A:20.

"Status quo" means the relevant circumstances immediately prior to the dispute.

"Substantiated" means a finding when the available information, as evaluated by the child protective investigator and supervisor, indicates by a preponderance of the evidence that a child is an abused or neglected child as defined in N.J.A.C. 3A:11-1.3 because the child victim has been harmed or placed at risk of harm by a parent or guardian, as defined in N.J.S.A. 9:6-8.21. A child who in good faith is under treatment by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall not, for this reason alone, be considered to be an abused or neglected child, nor shall this condition preclude the Division from providing service or seeking court relief as in N.J.A.C. 3A:10-4.

(b) The following terms shall have the following meanings within N.J.A.C. 3A:5-1, 2, and 3, unless the context clearly indicates otherwise:

"Division" means the Division of Child Protection and Permanency, the Institutional Abuse Investigation Unit in the Department of Children and Families, or the Office of the Public Defender acting as the Division's agent in conflict matters.

"Division representative" means a professional employee of the Division of Child Protection and Permanency, the Institutional Abuse Investigation Unit, or of the Office of the Public Defender acting as the Division's agent in conflict matters.

§ 3A:5-1.4 Construction

These rules shall be liberally construed to allow the Division to discharge its statutory functions. The Commissioner or designee may, upon notice to all parties, relax the application of these rules where the interest of justice and considerations of due process will be furthered thereby.

§ 3A:5-1.5 Computation of time

The computation of time shall be in accordance with N.J.A.C. 1:1-1.4, unless otherwise indicated in these rules.

§ 3A:5-2.1 Notice of Division action to a service provider

(a) The Division shall provide proper notice to a service provider of a Division action that creates a status issue subject to a dispositional review under N.J.A.C. 3A:5-3.1(a)1.

(b) Except as limited by (c) below, the Division shall provide proper written notice 10 days in advance of a Division action, which is subject to a dispositional review under N.J.A.C. 3A:5-3.1(a)1. The written notice shall include:

1. A statement of the proposed Division action and the reason for the Division action;

2. A statement explaining the individual's right to dispute resolution in accordance with these rules; and

3. The name and address of a Division representative to contact to request a dispositional review.

(c) Advance notice shall not be required on the disposition of an application to become a service provider.

(d) The Division shall inform the resource parent immediately if the child is removed.

§ 3A:5-2.2 Notice of Division action to a parent

(a) Except as limited by (d), (e), (f) and (g) below, the Division shall provide notice to a parent of a Division action that creates a Division service issue under N.J.A.C. 3A:5-4.3(a)1 at least 10 days in advance of the Division action to a parent requesting or receiving the service or a parent requesting the service on behalf of a child or a parent of a child receiving the service.

(b) Notice of the Division action as in (a) above shall include:

1. The right to appeal the Division action;

2. The applicable time frames for requesting an appeal;

3. The parent's right to an administrative hearing; and

4. The procedures for administrative hearings.

(c) Notice of the Division action shall be provided in any one or more Division documents distributed to the parent specifically, as in a case plan, in accordance with N.J.A.C. 3A:12-1, or generally, as in a handbook or other publication, which is distributed in the routine course of business, through oral communication or any combination thereof.

(d) The Division shall not provide prior written notice on an application for service.

(e) The Division shall not provide separate notice for each Division action that is part of a case plan when the case plan has been shared in written form with the parent.

(f) The Division may delay notice up to 30 days when immediate action is necessary to protect a child who has been harmed or is at imminent risk of harm, pursuant to N.J.S.A. 9:6-8.8 et seq., N.J.S.A. 30:4C-1 et seq. or when harm or risk of harm is due to a violation of standards in N.J.A.C. 3A:50 through 3A:56 or when the client's behavior creates a threat to himself or herself or others.

(g) The Division may dispense with notice to the parent when:

1. The Division has factual information confirming the death of the client;

2. The Division received an oral or clearly written statement signed by the client that he or she no longer wishes services or that he or she gives information which requires termination of services and the client has indicated that he or she understands that this is the consequence of supplying the information;

3. The client's whereabouts are unknown and Division mail directed to the client has been returned by the post office indicating no known forwarding address, or a home visit was made and documentation obtained that the client no longer resides there;

4. The client has been accepted for services in a new jurisdiction and that fact has been established by the local office previously providing services;

5. The client has relocated outside the jurisdiction of the local office or local agency providing services, and has not provided 30 days advance notice of such relocation to enable the Division to continue uninterrupted service if the client continues to be eligible for the service despite the relocation; or

6. A service which is provided for a specific period of time is terminated and the client was informed in writing of the projected termination date of the service at the time of service initiation.

§ 3A:5-2.3 Notice of substantiated findings

The Division shall provide notice of a finding of substantiated abuse or neglect to each perpetrator pursuant to N.J.A.C. 3A:10-7.6(c).

§ 3A:5-2.4 Preliminary efforts

(a) Field contacts, office interviews with supervisory or management personnel, and consultation with area and central office representatives comprise preliminary efforts to resolve matters under dispute. The Division representative shall advise the appellant that he or she has the opportunity to resolve a dispute using preliminary efforts prior to exercising a right to a dispositional review or an administrative hearing, if eligible.

(b) For disputes of matters for which an appellant has a right to an administrative hearing as set forth in N.J.A.C. 3A:5-4.3, the Division representative shall explain to the appellant that these preliminary efforts are not considered a prerequisite for an administrative hearing and in no event can they delay, interfere with or impede the processing of an administrative hearing request.

(c) Preliminary efforts may continue during the 30-day period following a request for an administrative hearing and pending the filing of the case with the Clerk of the Office of Administrative Law in accordance with N.J.A.C. 1:1-8.1(a) and as expanded by N.J.A.C. 1:1-8.1(b).

(d) For disputes of matters for which an appellant has a right to a dispositional review as set forth in N.J.A.C. 3A:5-3.1, the Division representative shall explain to the appellant that in no event are these preliminary efforts to be considered a prerequisite for a dispositional review and in no event can they delay, interfere with or impede the processing of a dispositional review.

(e) Preliminary efforts may continue throughout the dispositional review process.

§ 3A:5-2.5 Requests for dispositional reviews and administrative hearings

(a) Any person noticed of a Division action and entitled to appeal that Division action as set forth in N.J.A.C. 3A:5-3.1 may request a dispositional review or in N.J.A.C. 3A:5-4.3 may request an administrative hearing, as appropriate, within 20 days of notice of that Division action, or within 20 days of learning of the Division action, as provided in (b) below. Any written expression by an appellant, or a person acting as the appellant's representative, to the effect that the appellant wants the opportunity to present his or her case to a higher authority with regard to a Division action, constitutes a request for a dispositional review or an administrative hearing, as appropriate, when done in accordance with the notice provided. A Division representative shall help the appellant write his or her request when the appellant requests help.

(b) Any person entitled to appeal a Division action but who has not received notice of the Division action may request an appeal of that Division action within 20 days of learning of the Division action.

(c) Notice of a Division action shall provide contact information, including the address to which a request for an appeal is made.

(d) The recipient of the request to appeal a Division action shall forward that request to the appropriate resolution authority as specified in N.J.A.C. 3A:5-3.1 or 4.3 within one business day of receipt of the request to appeal a Division action.

(e) The Administrative Hearings Unit shall acknowledge in writing each request for appeal involving a matter described in N.J.A.C. 3A:5-3.1 or 4.3 within 10 business days. The written acknowledgment shall inform the appellant of the right to a dispositional review or an administrative hearing and the procedures for a dispositional review or an administrative hearing.

(f) The Division shall deem the appellant to have waived his or her right to a dispositional review or administrative hearing, if an appellant fails to request a dispositional review or an administrative hearing within the time limits established for appealing a Division action in accordance with (a) and (b) above, except that the Administrative Hearings Unit shall not deny the appellant's request if the reason for the delay in making the request was not within the appellant's control.

§ 3A:5-2.6 Eligibility for continued service and status

(a) Upon receipt of a request for a dispositional review or an administrative hearing which has been received in accordance with N.J.A.C. 3A:5-2.5(a) and (b), the status quo shall be continued or reinstated at an unreduced level until the agency decision or initial decision is rendered when any of the following circumstances apply:

1. Disruption of the status quo shall place a child at risk of child abuse or neglect pursuant to N.J.S.A. 9:6-8.8 et seq.;

2. Disruption of the status quo shall significantly compromise the appellant's ability to have the Division action reversed or modified through the appeal process;

3. The appellant has new information that was not known or not available at the time of the Division action; or

4. An administrative law judge determines that the issue is one of fact rather than law or policy.

(b) Upon receipt of a request for a dispositional review or an administrative hearing for appealing a Division action in accordance with N.J.A.C. 3A:5-2.5(a) and (b), the status quo shall not be continued or reinstated when continuing or reinstating the service would pose a risk of harm or injury to a child, adult client or other adult related to the issue in dispute, including, but not limited to, the following circumstances:

1. The Division shall not return a child to the out-of-home placement from which a child has been removed because the child or any other child in the out-of-home placement has been abused or neglected or has been alleged to have been abused or neglected pursuant to N.J.S.A. 9:6-8.8 et seq. or when the out-of-home placement fails to meet the standards for continued approval, except as permitted in N.J.A.C. 3A:51-2.5(b) and 2.6(f);

2. The Division shall not return a child to the out-of-home placement from which the child has been removed, when the child has been returned to his or her parents or relatives, united or reunited with separated siblings or placed in an adoptive home;

3. The Division shall not continue or reinstate services or status pending the outcome of a dispositional review or administrative hearing when the appellant's behavior poses a threat to himself, herself or others;

4. The Division shall not continue or reinstate services or status pending the outcome of a dispositional review or administrative hearing when the matter is pending the results of an IAIU investigation; or

5. The Division shall not continue or reinstate services or status pending the outcome of a dispositional review or administrative hearing when the Division has determined that a child in an out-of-home placement or other care in a home or facility subject to the regulatory jurisdiction of the Department is in imminent risk of harm as a result of conditions in the home or facility.

§ 3A:5-2.7 Final agency decision

(a) The final agency decision shall be binding on all parties concerned.

(b) For each agency decision, the Commissioner or designee shall:

1. Issue a final agency decision within 45 days of the conclusion of the dispositional review; or

2. If no material facts are in dispute, consider the case for a Motion for Summary Disposition.

(c) For each initial decision, the Commissioner or designee shall review the record and any exceptions submitted by any party and issue the final agency decision within 45 days of receipt of that initial decision of the administrative law judge in accordance with N.J.A.C. 1:1-18.4.

(d) The Commissioner or designee shall inform the appellant that he or she can contact the Commissioner or designee to arrange an alternative means to submit exceptions, if the party cannot communicate in English or has a communication handicap. If the parties wish to take exception to the initial decision, such exception shall be submitted in writing to the Commissioner or designee, except where parties who are unable to communicate in English or have a communication handicap have made arrangements with the Commissioner or designee for alternative means for submitting their exception.

(e) The final agency decision shall be effective on the date it is rendered unless another effective date is designated.

(f) The Division shall maintain an official record of each dispositional review and each administrative hearing for at least one year after the date the final agency decision is rendered. During this one-year period, the appellant or his or her legal representative may review, upon appointment, all or any part of the official and complete record of the dispositional review or administrative hearing, except as restricted by N.J.A.C. 3A:5-2.9.

(g) The Division shall deliver the final agency decision to the appellant either by hand delivery or by sending a copy of the final agency decision to the current or last known address of the appellant and, where applicable, to counsel, no later than five business days following the rendering of the final agency decision.

(h) The Division shall take such steps as may be necessary to assure that the final agency decision is carried out.

§ 3A:5-2.8 Appeal of final agency decision

Any appeal of the final agency decision shall be solely to the Appellate Division of the Superior Court within time limits allowed by New Jersey Court Rule 2:2-3. The final agency decision shall include notice to the appellant of the right to file an appeal to the Appellate Division, the time frames and related procedures.

§ 3A:5-2.9 Accessibility of records

(a) The Division shall advise the appellant of the accessibility of records and any limits of such accessibility at the time the request for a dispositional review or administrative hearing is granted, in accordance with this section.

1. The appellant, or his or her representative with the appellant's authorization in writing, shall have adequate opportunity to examine such portions of the appellant's case file and all documents and records to be used by the Division to reach a conclusion at the administrative hearing or dispositional review at a reasonable time before the date of the administrative hearing or dispositional review, as well as during the administrative hearing or dispositional review, except as limited by:

i. The Adoption Assistance and Child Welfare Act, 42 U.S.C. § 671(a)(8) and regulations promulgated thereunder, as from time to time amended, applicable State laws, and N.J.A.C. 3A:3;

ii. 45 C.F.R. 205.50, as made applicable by 45 C.F.R. 1355.21; or

iii. N.J.S.A. 9:6-8.10a and N.J.A.C. 3A:3, which limit the provision of information which constitutes child abuse or neglect records or reports to the appellant, his or her representative or the OAL, except under circumstances expressly authorized by N.J.S.A. 9:6-8.10a and Federal regulations;

2. The appellant or his or her representative may apply for relief of any limits of access to records due to confidentiality, if desired by the appellant, to a court of competent jurisdiction at any point in the dispute resolution process; and

3. A Division representative shall provide to the appellant an edited version of confidential reports and all documents and records used by the agency to reach the disputed conclusion when confidential information pursuant to 45 C.F.R. 205.50, 45 C.F.R. 1355.21, N.J.S.A. 9:6-8.10a, and N.J.A.C. 3A:3 or information which constitutes child abuse/neglect information is embedded in the files, documents and records.

§ 3A:5-3.1 When to hold a dispositional review

(a) When preliminary efforts described in N.J.A.C. 3A:5-2.4 have been declined by the appellant or have failed to resolve an issue and an appellant requests a dispositional review, and when the request is made in accordance with N.J.A.C. 3A:5-2.5, the Division shall provide a dispositional review with:

1. A service provider who disagrees with a status issue;

2. A resource parent who disagrees with the removal of a child receiving foster care in his or her resource home when the child has been residing with the resource parent for at least six months, except when:

i. The child is not being returned to a birth parent or relative;

ii. The child is not being united or reunited with siblings for whom the resource parent cannot or will not provide a home;

iii. The child is not being moved from a temporary placement to a permanent adoptive placement;

iv. The child has not been removed from a resource home pending the completion of an IAIU child abuse and neglect investigation; or

v. The resource parent or household member has a finding of substantiated abuse or neglect in accordance with N.J.A.C. 3A:10-7.3;

3. A resource parent who disagrees with the removal of a child who has been in the home continuously for six months or more for the purpose of finalizing an adoption;

4. A resource parent of one child in a sibling group who disagrees with the placement of a sibling with a separate resource family for either foster care or adoption consistent with N.J.S.A. 9:6B-4d; and

5. A resource parent who disagrees with the re-placement of a child needing foster care in another resource home consistent with N.J.S.A. 30:4C-53.3c(5).

(b) A relative does not have a right to appeal, as a status issue, a Division action that it is not in a child's best interest to be placed with a relative. A relative can appeal a Division action that the relative is either unwilling or unable to care for a child.

§ 3A:5-3.2 Procedures related to dispositional reviews

(a) A request for a dispositional review shall be made in accordance with N.J.A.C. 3A:5-2.5.

(b) The appellant shall submit any information that he or she has agreed to submit to the Review Officer within the time limit agreed upon between the appellant and the Review Officer.

(c) The Review Officer shall conduct a dispositional review through a telephone conference in lieu of having the parties present, when the appellant declines to meet in person with the Review Officer, but agrees to communicate by telephone.

(d) If there is no in-person or telephone meeting, the Review Officer shall conduct a record and document review in lieu of having the parties present.

(e) The Division shall determine whether and in what manner the child's position on the matters at issue shall be ascertained and the nature of the child's participation in the dispositional review where the outcome of the dispositional review shall have a direct impact on the child or children.

(f) The Division shall send the appellant written notification of whether a dispositional review shall be a meeting/gathering of the parties, or a telephone conference, or a record and document review, at least five business days prior to the dispositional review, and include the time and location of the dispositional review and issues to be considered.

(g) The Division shall grant a request for postponement of a dispositional review only for good cause, which shall include the appellant's need for additional time to provide necessary information. The Division shall consider that an appellant has withdrawn his or her request for a dispositional review when the Division has not granted a postponement and the appellant:

1. Does not appear at the scheduled dispositional review, unless such failure is due to unavoidable causes; or

2. Does not provide the agreed upon information for the dispositional review within the agreed upon time limit, unless delayed for reasons beyond the appellant's control or for other good reason.

(h) Prior to the dispositional review, the Review Officer conducting the dispositional review, at his or her discretion, may consult with Division staff who have information related to the issue being appealed.

(i) The dispositional review shall include a summary of the factual basis for the Division action, in accordance with N.J.A.C. 1:1-8.2(a)5, the relevant rules and policy, a review of information gathered through prior consultation with staff, information presented orally or in writing by the appellant, information presented orally or in writing by witnesses, supporters or representatives for both the Division and the appellant, and questions asked and answered in the course of the dispositional review.

(j) The Review Officer conducting the dispositional review shall make an agency decision based on the record and the information presented at the dispositional review or during any consultation with other Division representatives.

(k) The Division shall forward written notification of the agency decision of the dispositional review, containing each element stated in N.J.A.C. 3A:5-3.2(i), to the appellant within 60 business days of the completion of the dispositional review process and shall include notice of whether the appellant has a right or opportunity to appeal further in accordance with N.J.A.C. 3A:5-2.8, and if so, notice of the

procedures for initiating further appeals and the contact information, including the address and telephone number.

(l) The Division may deem waived any appeal opportunity that has not been exercised in accordance with the time frames specified in N.J.A.C. 3A:5-2.5(a) and (b), except that the Division shall not deny an appeal where the request for an appeal was delayed for reasons beyond the appellant's control.

§ 3A:5-4.1 General provisions

(a) A request for an administrative hearing shall be made in accordance with N.J.A.C. 3A:5-2.5.

(b) The written request for an administrative hearing shall be specific as to the exact nature of the Division action in dispute. The Division representative shall help the appellant express his or her request, as necessary.

(c) Upon receipt of a request for an administrative hearing, the Administrative Hearings Unit may request information from the appellant in order to make a determination as to whether material facts are in dispute. When such information is received, the Administrative Hearings Unit shall make a record thereof and determine whether the appellant is entitled to an administrative hearing in accordance with N.J.A.C. 3A:5-4.3.

(d) If the appellant is eligible for an administrative hearing, the AHU shall transmit the case to the OAL for an administrative hearing in accordance with N.J.A.C. 1:1-4.1 and 8.1.

(e) If the appellant is not eligible for an administrative hearing for reasons other than the absence of material disputed facts, the AHU shall notify the appellant of this determination within 10 business days of making the determination, as well as provide the appellant with information concerning other appeal avenues which may be available.

§ 3A:5-4.2 Motion for Summary Disposition

(a) When the Administrative Hearings Unit determines that an appellant is ineligible for an administrative hearing because of the absence of material disputed facts, the Administrative Hearings Unit recommends to the Director of Legal Affairs or designee that the matter is appropriate for a Motion for Summary Disposition.

(b) The Director of Legal Affairs or designee, in consultation with a representative of the Attorney General's Office, shall determine whether to proceed with a Motion for Summary Disposition, based on whether or not there are material facts in dispute.

1. When the Director of Legal Affairs or designee and the representative of the Attorney General's Office determine to proceed with a Motion for Summary Disposition because no material facts are in dispute, the case shall be transmitted to the Attorney General's Office for assignment for preparation of the Motion for Summary Disposition.

2. When the Director of Legal Affairs or designee and the representative of the Attorney General's Office determine not to proceed with a Motion for Summary Disposition, because material facts are in dispute, the matter shall be transmitted to the OAL in accordance with N.J.A.C. 3A:5-4.3.

(c) The assigned representative of the Attorney General's Office transmits the completed Motion for Summary Disposition to the Commissioner or designee, and, in accordance with N.J.A.C. 1:1-12.2, to the appellant.

1. The appellant shall have 10 days to file exceptions with the Commissioner or designee.

(d) If, after reviewing all materials and any exceptions filed by the appellant and responses by the Attorney General's Office pursuant to N.J.A.C. 1:1-18.4(d), the Commissioner or designee determines that no material facts are in dispute, the Commissioner or designee shall sign an order denying the appellant's request for an administrative hearing. The Commissioner or designee shall then determine whether the Division action resulting from the undisputed facts is proper based on applicable law, regulations and policies. The Commissioner or designee shall affirm, reverse, or deny the Division action and issue a final agency decision accordingly.

1. The appellant may appeal the final agency decision in accordance with N.J.A.C. 3A:5-2.8.

(e) If, after reviewing all materials and any exceptions filed by the appellant and responses by the Attorney General's Office pursuant to N.J.A.C. 1:1-18.4(d), the Commissioner or designee determines that material facts are in dispute, the Commissioner or designee shall sign an order denying the Motion for Summary Disposition and granting the request for an administrative hearing.

1. The Administrative Hearings Unit shall transmit the matter to the Office of Administrative Law in accordance with N.J.A.C. 3A:5-4.3.

§ 3A:5-4.3 Transmittal to OAL

(a) The Administrative Hearings Unit shall transmit a matter that constitutes a contested case, pursuant to N.J.A.C. 1:1-1.1, to the Office of Administrative Law, including:

1. A request by a parent of a child under the supervision of the Division, a child under the supervision of the Division, or a person with physical custody acting on behalf of that child, or a sibling of that child, or a relative as defined to dispute a denial, reduction, suspension or termination regarding a Division service issue, unless the denial, reduction, suspension, or termination is an across the board action resulting from a reduction in Federal or State funding; or

2. A request by a perpetrator of child abuse or neglect to appeal a substantiated finding of child abuse or neglect, when there are material disputed facts.

(b) The Commissioner or designee, at his or her discretion and with the concurrence of the Director of the Office of Administrative Law, may transmit an uncontested case for an administrative hearing before an administrative law judge in accordance with N.J.A.C. 1:1-2.1.

(c) The Administrative Hearings Unit shall not transmit the following requests to the Office of Administrative Law:

1. Requests to appeal the terms of a court order which specifically addresses the disputed Division action;

2. Requests to dispute the Division's use of a specific service provider in the provision of out-of-home placement when the Division has offered an appropriate alternative to meet the case goal or a change in the out-of-home placement of a child without constituting a reduction of services;

3. Requests to dispute a finding of substantiated child abuse or neglect or other Division action being processed in accordance with N.J.A.C. 3A:5-4.2; or

4. Requests to dispute any matter referenced in N.J.A.C. 3A:5-3.1.

§ 3A:5-4.4 Withdrawal of administrative hearing request

The filing of a request for an administrative hearing shall not preclude continued effort to accomplish corrective action or interpretation by the Division through preliminary efforts in accordance with N.J.A.C. 3A:5-2.4 and N.J.A.C. 1:1-4.2 and 8.1. If, as a result of satisfactory adjustment or for any other reason, the appellant desires to withdraw the request for the administrative hearing, he or she shall so notify the Division and the OAL in accordance with N.J.A.C. 1:1-19.2.

Title 3A, Chapter 6 through 9 (Reserved)

Title 3A, Chapter 10 -- Child Protection Investigations

Readoption with Amendments: N.J.A.C. 3A:10

Adopted Repeal: N.J.A.C. 3A:10-2.2

Proposed: January 22, 2019 at 51 N.J.R. 125(a).

Adopted: April 17, 2019, by Christine Norbut Beyer, M.S.W., Commissioner, Department of Children and Families.

Filed: April 17,2019, as R. 2019 d.050, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 9:3A-7.f and g, 9:6-8.15, 9:6-8.36a, 9:6-8.106, and 30:4C-4(h).

Effective Dates: April 29, 2019,Readoption;

June 3, 2019,Amendments.

Expiration Date: April 29, 2026

§ 3A:10-1.1 Purpose and objectives

(a) The purpose of this chapter is to:

1. Describe how the Department conducts a child protection investigation;

2. Explain the requirements of a child protective investigator in performing an investigation; and

3. Explain what an alleged child victim, caregiver, or parent or guardian may expect during the course of a child protection investigation.

(b) The objectives of this chapter are to:

1. Define when an investigation is required;

2. Identify each allegation of abuse or neglect that constitutes a report;

3. Establish the time frame for initiating an investigation;

4. Identify the evidence needed to support a finding;

5. Define the requirements for starting and completing an investigation conducted by local office staff or Institutional Abuse Investigation Unit staff, including a safety assessment and risk assessment;

6. Define Department actions permitted in performing investigations;

7. Define each circumstance requiring referral of a report to a medical or other professional, law enforcement officer or prosecutor for specialized assessment;

8. Set forth guidelines by which Department child protective investigator may easily identify cases that must be referred to prosecutors;

9. Establish procedures for such referrals to prosecutors;

10. Establish a system through which a Department child protective investigator may assist prosecutors in determining which cases should be investigated for criminal prosecution and in identifying cases in which criminal investigation or prosecution would be detrimental to the child's best interests;

11. Establish a framework for liaison and improved communication and cooperation between the Department's local offices and the prosecutors' offices in order to further the mutual goals of protecting the child and proper law enforcement;

12. Identify the requirements for accessing law enforcement assistance;

13. Establish a requirement for providing services to an alleged child victim or his or her family members;

14. Identify the standards for removing an alleged child victim from his or her home;

15. Specify standards for documentation and notification of an investigation finding as well as other notification given at the end of an investigation; and

16. Specify standards for the expunction of a record.

§ 3A:10-1.2 Scope

(a) The provisions of this chapter apply to the following persons involved in a child protection investigation:

1. Each child and his or her family and each household member;
2. Each child at risk of abuse or neglect;
3. Each parent or guardian of such a child;
4. Each caregiver or paramour, including a temporary or an institutional caregiver;
5. Each person named as an alleged perpetrator of abuse or neglect;
6. Each reporter;
7. The Public Defender when acting as the Department's agent; and
8. Each Department representative.

(b) The provisions of this chapter as effective April 1, 2013, shall apply to investigations commenced or reopened by the Division of Child Protection and Permanency on or after April 1, 2013. Investigations commenced on or prior to March 31, 2013, for which a finding has not been made are subject to the provisions of this chapter in effect immediately prior to April 1, 2013.

§ 3A:10-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Abused or neglected child" means a child:

(a) Less than 18 years of age:

1. Whose parent or guardian inflicts, or allows to be inflicted upon such child, physical injury by other than accidental means, which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ;

2. Whose parent or guardian creates or allows to be created a substantial or ongoing risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted loss or impairment of the function of any bodily organ;

3. Whose parent or guardian commits or allows to be committed an act of sexual abuse against the child;

4. Whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as the result of the failure of his or her parent or guardian to exercise a minimum degree of care:

i. In supplying the child with adequate food, clothing, shelter, education, medical or surgical care, though financially able to do so, or though offered financial or other reasonable means to do so; or

ii. In providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or substantial risk thereof, including the infliction of excessive corporal punishment; or by any other acts of a similarly serious nature requiring the aid of the court;

5. Who has been willfully abandoned by his or her parent or guardian;

6. Upon whom excessive physical restraint has been used under circumstances which do not indicate that the child's behavior is harmful to himself or herself, others or property; or

7. Who is in an institution other than a day school, and:

i. Has been placed there inappropriately for a continued period of time with the knowledge that the placement has resulted or may continue to result in harm to the child's mental or physical well-being; or

ii. Who has been willfully isolated from ordinary social contact under circumstances which indicate emotional or social deprivation.

(b) No child who in good faith is under treatment by spiritual means alone, through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof, shall, for this reason alone, be considered to be abused or neglected.

"Assessment of physical harm" means assessment, including visual inspection, used by a child protective investigator, made by either the child protective investigator or by another professional on the request of the child protective investigator, to determine the existence of and the extent of an alleged child victim's physical injury or condition.

"Call" means contact made by a reporter to the State Central Registry through a phone call or other means of communication.

"Caregiver" means any person who has physical custody of a child, including a parent, stepparent, resource parent, or any person who has assumed responsibility for the care, custody, or control of a child.

"Child" means a person from birth to his or her 18th birthday.

"Child Abuse Record Information" or "CARI" means the information in the child abuse registry as established in N.J.S.A. 9:6-8.11, which may be released to a person or agency outside the Department's Division of Child Protection and Permanency or Institutional Abuse Investigation Unit only as prescribed by law.

"Child advocacy center" means a county-based center, pursuant to N.J.S.A. 9:6-8.104, which provides abuse prevention, intervention, and treatment services to children, who are victims of abuse or neglect.

"Child protective investigator" means a Department representative who performs a child protection investigation including a representative of the Office of the Public Defender acting as the Department's agent.

"Core service" means any one of the mandated services that a regional diagnostic and treatment center may provide to or on behalf of an alleged child victim, and his or her parent or family member whom a center is evaluating in the context of a child protection investigation or treatment of abuse or neglect, as specified in N.J.S.A. 9:6-8.99.

"Criminal History Record Information" or "CHRI" means the information collected by the Department through State and Federal criminal background checks.

"Department" means the New Jersey Department of Children and Families.

"Department representative" means a professional employee of the Department, including a child protective investigator.

"Division" or "CP&P" means the Division of Child Protection and Permanency at the New Jersey Department of Children and Families.

"Established" has the meaning given in N.J.A.C. 3A:10-7.3(c).

"Expunction" means the destruction, erasure and complete eradication of a record and applies to the destruction of computer files and corresponding paper files.

"Finding" means the final determination made by a child protective investigator of the results of a child protection investigation.

"Immediate response" means an in-person contact with a child victim made by an assigned child protective investigator no later than the end of the work day in which the State Central Registry assigns the report to the local office or Institutional Abuse Investigation Unit for response.

"Institution" means any facility, public or private, in-State, which provides children with out-of-home care, supervision or maintenance. "Institution" includes, but is not limited to, a correctional facility, detention facility, residential child care facility, hospital, camp, child care center that is licensed or should be licensed, group home, and registered family child care home.

"Institutional Abuse Investigation Unit (IAIU)" means a child protective service agency within the Department of Children and Families, dedicated solely to investigating allegations of abuse or neglect in child care facilities, resource homes, and other out-of-home care settings.

"Institutional caregiver" means an employee or volunteer, whether compensated or uncompensated, of an institution who is responsible for the child's welfare and any other staff person of an institution, regardless of whether or not the person is responsible for the care or supervision of the child. "Institutional caregiver" also includes the chief administrator responsible for the operation of an institution or facility.

"Investigation" or "child protection investigation" means the activity of gathering all information relevant to making a determination as to whether abuse or neglect occurred.

"Local office" means an office of the Division of Child Protection and Permanency, which provides direct services and referrals to clients within a limited geographic area of New Jersey. The services provided may be child welfare services, child protective services, and adoption services.

"Multidisciplinary team" means an investigation and case management team comprised of professionals from law enforcement, medicine, child protective services, mental health and substance abuse identification and treatment, and a core service provider from a regional diagnostic and treatment center.

"Not established" has the meaning given in N.J.A.C. 3A:10-7.3(c).

"Paramour" means a parent's or guardian's partner, other than his or her spouse, who is in a care-giving role for the alleged child victim. This definition is applicable whether the paramour resides in the home, frequents the home, is a same-sex partner, or is a current or ex-boyfriend or girlfriend.

"Parent" means a person who is the mother or father of a child through birth or adoption.

"Parent or guardian" means any birth parent, adoptive parent, resource parent, stepparent, paramour, or any person, who has assumed responsibility for the care, custody or control of a child or upon whom there is a legal duty for such care. "Parent or guardian" includes a teacher, employee or volunteer, whether compensated or uncompensated, of an institution who is responsible for the child's welfare and any other staff person of an institution regardless of whether or not the person is responsible for the care or supervision of the child. Parent or guardian also includes a teaching staff member or other employee, whether compensated or uncompensated, of a day school as defined in N.J.S.A. 9:6-8.21.

"Permanency worker" means a Department representative, other than the child protective investigator, who is responsible for providing and monitoring services to a child and his or her family involved with the Department.

"Perpetrator" means a person who has been determined by the Department to have inflicted or allowed to be inflicted abuse or neglect.

"PROMIS/GAVEL" means the New Jersey courts' computer criminal record check.

"Regional diagnostic and treatment center" or "center" means a regional diagnostic and treatment center, as established pursuant to N.J.S.A. 9:6-8.99, to provide for the medical and mental health diagnostic and

treatment needs of abused or neglected children in the geographic region in which the center is located, through a multidisciplinary approach to abuse and neglect.

"Report" means an account or statement describing a specific incident or set of circumstances of suspected abuse or neglect.

"Reporter" means an individual who contacts the State Central Registry to make a child protective services report, a child welfare service referral, or a request for social services.

"Risk assessment" means a structured process that uses a tool to determine the likelihood that the alleged child victim will be abused or neglected in the future.

"Safety assessment" means a structured process that uses a tool to determine whether the alleged child victim is in imminent danger of harm.

"State Central Registry" means the centralized operation within the Department of Children and Families responsible for screening incoming calls to the State of New Jersey to gather information about an alleged incident or set of circumstances suggesting suspected abuse or neglect or a child welfare service need.

"Substantiated" has the meaning given in N.J.A.C. 3A:10-7.3(c).

"Temporary caregiver" means a person who has assumed temporary care, custody, or control of a child, including a babysitter, but does not include an institutional caregiver or a police officer acting in an official capacity.

"Unfounded" has the meaning given in N.J.A.C. 3A:10-7.3(c).

§ 3A:10-1.4 General policy

The primary concern of all public agencies involved with abuse and neglect is to ensure the safety, well-being, and best interests of the child. Other considerations, such as the objective of maintaining family integrity, promoting family functioning or the concern for traditional "parental rights," are secondary.

§ 3A:10-2.1 When an investigation is required

(a) The State Central Registry representative shall deem a call to be a report if he or she determines that a call contains at least one allegation which, if true, would constitute a child being an abused or neglected child, as defined in N.J.A.C. 3A:10-1.3. The child protective investigator shall investigate each new report, regardless of whether the alleged child victim and his or her family is known or not known to the Department.

(b) A child protective investigator shall conduct a child protection investigation in response to each report alleging abuse or neglect on a military installation, to the extent permitted by the base commander, in accordance with U.S. Department of Defense Instruction 6400.01, incorporated herein by reference as amended and supplemented, and this chapter.

1. U.S. Department of Defense Instruction 6400.01 is available for download from the Department of Defense's website, **http://www.esd.whs.mil/Portals/54/Documents/DD/dodm/640001m_voll.pdf?ver=2018-03-16-083539-267.**

(c) A child protective investigator shall handle each report in which the harm alleged to a child is the result of treatment in good faith for a medical condition by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof in accordance with this chapter, except for N.J.A.C. 3A:10-7.3.

§ 3A:10-2.2 Time frames for investigation

(a) The child protective investigator shall start the investigation of a report no later than the end of the work day or within 24 hours of the State Central Registry representative determining the time frame and notifying the local office or the after-hours child protective investigator of the report, unless a Division or other entity authorizes a delay based upon the request of a law enforcement official, pursuant to N.J.S.A. 9:6-8.11.

(b) The State Central Registry representative determines whether each report meets one or more of the following criteria. The State Central Registry representative determines each report that meets one or more of the following criteria shall be investigated no later than the end of the work day of receipt at the State Central Registry. The criteria are:

1. Law enforcement personnel request an immediate response;

2. An immediate response will prevent the loss of evidence;

3. A child has died due to abuse or neglect and a sibling or other child remains under the care of a parent or guardian;

4. A child is born drug-exposed;

5. A child under age six is alone at the time the State Central Registry receives the report;

6. A child requires medical attention at the time the State Central Registry receives the report; or

7. A child is being seriously physically abused at the time the State Central Registry receives the report.

§ 3A:10-2.3 Evidence needed to support a finding

(a) The child protective investigator shall, in completing the investigation of a report containing one or more allegations of abuse or neglect:

1. Obtain evidence whether the child has an injury or condition;

2. Obtain evidence whether the injury or condition is a direct result of one of the following:

i. Some action by a parent or guardian;

ii. The failure of a parent or guardian to stop the action of another person; or

iii. The parent or guardian's reckless disregard of a harmful situation;

3. Obtain a detailed explanation from the alleged child victim, the alleged perpetrator, each witness and each other person with knowledge of the injury or condition;

4. Document the final police investigation result, if any, whenever there is police involvement in the investigation; and

5. Document each verbal statement by the police and the request for the police report, whenever there is police involvement in the investigation and a police report is not made or is unavailable.

(b) The child protective investigator shall, in completing the investigation of a report containing one or more allegations of abuse:

1. When there is not a clear preponderance of evidence regarding the allegation, obtain a medical opinion which states whether the explanation given by the parent or guardian for the injury or condition is inconsistent with the injury or condition and that the most likely manner in which the injury or condition occurred was abuse; or

2. Obtain a statement by the alleged perpetrator that he or she has admitted causing the injury or condition.

(c) The child protective investigator shall, in completing an investigation of a report containing an allegation of sexual abuse:

1. Document the consistency between each statement and any existing physical evidence;

2. Assess, for each allegation of sexual abuse, the credibility of each subject involved in the investigation and document reasons for the assessment, for example, demeanor of witness, consistency of reports over time; and

3. Obtain, for each allegation of sexual abuse, a statement from a mental health professional, which does or does not corroborate behavioral or emotional problems when the child's emotional or behavioral problems are used to corroborate the information used to make the finding.

(d) The child protective investigator shall, in completing an investigation, obtain circumstantial evidence which identifies the most likely perpetrator if multiple alleged perpetrators are identified.

§ 3A:10-2.5 (Reserved)

§ 3A:10-2.6 (Reserved)

§ 3A:10-2.7 (Reserved)

§ 3A:10-2.8 (Reserved)

§ 3A:10-2.9 (Reserved)

§ 3A:10-2.10 (Reserved)

§ 3A:10-3.1 Requirements for an investigation

(a) The child protective investigator shall interview the alleged child victim in person and individually, during the investigation of a report containing any allegation. The child protective investigator shall observe each non-verbal alleged child victim. The child protective investigator shall use sensitivity to avoid further trauma to each alleged child victim.

(b) The child protective investigator shall, in completing an investigation of a report containing any allegation:

1. Complete a safety assessment;

2. Interview, in person and individually, the caregiver and each adult in the home. The child protective investigator shall interview the alleged child victim's caregiver on the same day as the alleged child victim, if possible;

3. In cases where a service case is currently closed but had been open within the previous two years, interview a prior permanency worker who is the most knowledgeable about the family, if he or she is available;

4. Interview, in person and individually, each other child residing in the home of the alleged child victim. The child protective investigator shall observe each non-verbal child;

5. Read and review each available prior investigation relevant to the report;

6. Interview the reporter and each other person identified in the current report or related information as having knowledge of the incident or as having made an assessment of physical harm, including, but not limited to, the:

i. Physician;

ii. Medical examiner;

iii. Coroner;

iv. Other professional who treated the alleged child victim's current condition, other than the reporter;

v. Assigned permanency worker;

vi. Youth services provider;

vii. Private agency caseworker; and

viii. Other Department representative working with the alleged child victim or his or her family;

7. Interview the alleged perpetrator, in person;

8. Complete a Child Abuse Record Information check of each household member and each other individual regularly frequenting or living in the alleged child victim's home;

9. Conduct a PROMIS/GAVEL check to identify a paramour's record of criminal history, when the report involves a paramour;

10. Complete a risk assessment;

11. Observe the environment where alleged abuse or neglect occurred or which poses a threat to the child; and

12. Obtain and document written approval by a supervisor when seeking to eliminate any requirement listed in (b)1 through 11 above.

(c) The child protective investigator shall assess the need to contact and cooperate with law enforcement or a prosecutor, based upon the allegation(s) made in the report when completing an investigation. In particular, the child protective investigator shall determine if a joint investigation in accordance with the DCF/Law Enforcement Model Coordinated Response Protocol, **https://www.nj.gov/oag/dcj/pdfs/dcf-law-enf-protocol.pdf,** is possible and consult with the investigating police officer or prosecutor before interviewing the alleged child victim, unless emergency action is needed, when completing an investigation of sexual abuse.

(d) The child protective investigator shall obtain a medical assessment of the injury, which may include photos or a body chart, when completing an investigation of a report containing any allegation that involved a physical injury and when a physician has examined the child. The child protective investigator shall request a certified copy of hospital or other medical or forensic records, if available, for the Division of Child Protection and Permanency record, if abuse or neglect is substantiated or established.

(e) The child protective investigator shall, in completing an investigation:

1. Assess the strengths and needs of the caregiver;

2. Assess the strengths and needs of the alleged child victim;

3. Interview collateral contacts who have knowledge of the incident or circumstances;

4. Confirm child care arrangements reported by the caregiver where appropriate;

5. Interview school personnel or a child care provider, if any, with knowledge of the parental care provided to that child;

6. Interview each identified witness who is reported to have knowledge of the alleged abuse or neglect;

7. Interview each community professional who has first-hand knowledge of the alleged abuse or neglect;

8. Interview the following persons:

i. Each person residing at the address of occurrence, at the time of incident; and

ii. Each witness offered by the alleged perpetrator who could provide evidence that he or she did not abuse or neglect the alleged child victim;

9. Interview each investigative law enforcement officer working on the report;

10. Interview each of the primary response law enforcement personnel called to the scene of the alleged abuse or neglect;

11. Interview each medical professional directly involved with the treatment of the reported injury or condition, and obtain, if possible, a certified copy of any report;

12. Obtain a collateral contact from each medical professional who has seen the alleged child victim; and

13. Obtain and document written approval by a supervisor when seeking to eliminate any requirement listed in (e)1 through 12 above.

§ 3A:10-3.2 Safety assessment and risk assessment for local offices

(a) The child protective investigator shall consider the alleged child victim's safety throughout the investigation and at each meeting with the alleged child victim or caregiver.

(b) The child protective investigator shall assess the safety of an alleged child victim, using a Department-designated assessment tool, during the investigation.

(c) The child protective investigator shall complete a risk assessment, using a Department-designated assessment tool, during the investigation and after the completion of a safety assessment.

(d) The child protective investigator shall, in the event that a factor which makes the child unsafe has been identified, develop and implement a safety protection plan to assure the child's safety with the parent or caregiver. If the safety protection plan cannot assure the safety of the alleged child victim, the child protective investigator shall remove the alleged child victim from the home, in accordance with N.J.A.C. 3A:10-6.2. If a safety protection plan includes any provision limiting a parent or guardian access to a child or the home, a Department representative shall notify the deputy attorney general within five days.

§ 3A:10-3.3 Actions permitted in performing investigations

(a) The child protective investigator may make an unannounced visit to the alleged child victim's residence or place where the alleged child victim, or his or her parent or guardian, is located, when conducting the investigation except that, if the parent or guardian has explicitly forbidden contact with the child, an Order to Show Cause to Investigate may be required prior to contact.

(b) The child protective investigator may remove, move or cause to be removed or moved only that clothing necessary to view suspected injuries, when conducting the investigation. This shall be done in a manner consistent with the alleged child victim's sense of privacy and in consideration of the age, sex and emotional state of the alleged child victim and the need to limit the number of physical examinations the alleged child victim undergoes. This shall be done only in the presence of an adult supportive of the alleged child victim, except in emergency situations.

(c) The child protective investigator may photograph or arrange to photograph the alleged child victim's injury or harm, whenever there are visible indications of injury or harm, and subsequently to record the results of the injury or harm, when conducting the investigation.

§ 3A:10-3.4 (Reserved)

§ 3A:10-3.5 (Reserved)

§ 3A:10-3.6 (Reserved)

§ 3A:10-4.1 Requirements for an IAIU investigation

(a) The IAIU investigator shall, in completing an investigation of a report containing any allegation:

1. Interview the alleged child victim in person and individually, using sensitivity to avoid further trauma to each alleged child victim;

2. Observe each non-verbal alleged child victim;

3. Interview, in person and individually, the caregiver or institutional caregiver, on the same day as the alleged child victim, if possible;

4. Interview each adult in the home, when the investigation involves a resource home or family child care home;

5. Read and review each available prior investigation relevant to the report;

6. Interview the reporter and each other person identified in the current report or related information as having knowledge of the incident or as having made an assessment of physical harm, including, but not limited to, the:

i. Physician;

ii. Registered professional nurse;

iii. Forensic Nurse-Certified Sexual Assault (FN-CSA);

iv. Advanced practice nurse (APN);

v. Medical examiner;

vi. Coroner;

vii. Other professional who treated the alleged child victim's current condition, other than the reporter;

viii. Assigned permanency worker;

ix. Youth services provider;

x. Private agency caseworker; and

xi. Other Department representative working with the alleged child victim or his or her family;

7. Interview the alleged perpetrator, in person;

8. Complete a Child Abuse Record Information check of each household member and each other individual regularly frequenting or living in the alleged child victim's home when investigating a report involving a resource home or family child care home;

9. Conduct a PROMIS/GAVEL check to identify a paramour's record of criminal history, when the report involves a resource parent's paramour; and

10. Observe the environment where alleged abuse or neglect occurred or which poses a threat to the child.

(b) The IAIU investigator shall assess the need to contact and cooperate with law enforcement or a prosecutor, based upon the allegation(s) made in the report, when completing an investigation. In particular, the IAIU investigator shall determine if a joint investigation in accordance with the DCF/Law Enforcement Model Coordinated Response Protocol is possible and consult with the investigating police officer or prosecutor before interviewing the alleged child victim, unless emergency action is needed, when completing an investigation of sexual abuse.

(c) The IAIU investigator shall obtain a medical assessment of the injury, which may include photographs or a body chart, when completing an investigation of a report containing any allegation that involved a physical injury and when a physician has examined the child. If hospital or other medical or forensic records are available and abuse or neglect is substantiated or established, the IAIU investigator shall request a certified copy for the CP&P record.

(d) The IAIU investigator shall interview each identified witness who is reported to have knowledge of the alleged abuse or neglect.

(e) The IAIU investigator shall interview each community professional who has first-hand knowledge of the alleged abuse or neglect including:

1. Each witness offered by the alleged perpetrator who could provide evidence that he or she did not abuse or neglect the alleged child victim;

2. Each investigative law enforcement officer working on the report;

3. Each of the primary response law enforcement personnel called to the scene of the alleged abuse or neglect; and

4. Each physician directly involved with the treatment of the reported injury or condition, and obtain if possible a certified copy of any report.

§ 3A:10-4.2 Safety assessment for IAIU cases

(a) The IAIU investigator shall consider the alleged child victim's safety throughout the investigation and at each meeting with the alleged child victim or caregiver.

(b) The IAIU investigator shall assess the safety of an alleged child victim when investigating an allegation in a CP&P resource home, using a Department-designated assessment tool, during the investigation.

(c) The Department representative shall, in the event that a factor which makes the child unsafe has been identified, complete a safety assessment. A Department representative shall develop and implement a safety protection plan to assure the child's safety with the caregiver or institutional caregiver. If the safety protection plan cannot assure the safety of the alleged child victim, the Department representative shall remove the alleged child victim from the home or institution, in accordance with N.J.A.C. 3A:10-6.2.

§ 3A:10-4.3 Actions permitted in performing IAIU investigations

(a) The IAIU investigator may make an unannounced visit to the alleged child victim's residence or place where the alleged child victim, or his or her parent or guardian is located, when conducting the investigation.

(b) The IAIU investigator may remove, move or cause to be removed or moved only that clothing necessary to view suspected injuries, when conducting the investigation. This shall be done in a manner consistent with the alleged child victim's sense of privacy and in consideration of the age, sex and emotional state of the alleged child victim and the need to limit the number of physical examinations the alleged child victim undergoes. This shall be done only in the presence of an adult supportive of the alleged child victim, except in emergency situations.

(c) The IAIU investigator may photograph or arrange to photograph the alleged child victim's injury or harm, whenever there are visible indications of injury or harm, and subsequently to record the results of the injury or harm, when conducting the investigation.

§ 3A:10-5.1 Referral of cases to a prosecutor

(a) N.J.S.A. 9:6-8.10 requires each person to report suspected cases of abuse or neglect to the Department, and the Department has a legal obligation to refer to county prosecutors all cases that involve suspected criminal activity on the part of a child's parent, caregiver or any other person. While this duty may result in the referral of a substantial number of cases to prosecutors, it is anticipated that in most of the cases referred, extensive police involvement will not be warranted, and indeed that in many cases no police involvement will be required.

(b) Each child protective investigator is obligated to immediately report to the prosecutor all cases involving suspected criminal conduct on the part of a parent, caregiver, or any other person. This obligation shall be satisfied if the child protective investigator refers to the prosecutor all cases involving any of the following: (This list shall not be construed to preclude the referral of any other case which, in the judgment of the child protective investigator and supervisor, warrants review by the prosecutor.)

1. Death of a child;

2. The subjecting or exposing of a child to unusual or inappropriate sexual activity;

3. Any type of injury or condition resulting in hospitalization or emergency room treatment;

4. Any type of injury or condition that requires significant medical attention (for example, treatment for broken bone at physician's office);

5. Repeated instances of physical violence committed against a child, or substantially depriving a child of necessary care over a period of time; or

6. Abandonment of a child.

(c) While several of the criteria set forth in (b) above are based solely upon the objective condition of the child, there should also be some reason to believe that the injury or condition was not accidentally caused. For purposes of these guidelines, an injury is not accidental if an intentional act produces an unintended result. Thus, a parent, caregiver, or any other person who physically disciplines a child may have committed child abuse even though the resulting injury was not intended.

(d) This chapter regarding referral applies whether the child is residing at home or in an institution, school or other residential facility, and whether the person believed to be responsible for the injuries is the child's parent, caregiver, or any other person.

(e) The Department's duty to refer a case to the prosecutor immediately arises as soon as the child protective investigator has any information about the case which leads him or her to suspect that the alleged abuse or neglect may have occurred. This means that the child's condition or injury is one of those specified in this chapter and the child protective investigator has reason to believe that the condition or injury was not accidentally caused.

1. In some cases, such as where the child is in a hospital and a doctor states his or her opinion that the condition or injury was probably not accidental, the child protective investigator will have sufficient information to require a report at a very early stage of the investigation. In other cases, such as where evidence initially supports the claim that the condition or injury was accidentally

caused, the duty to report may not arise until a later point when the child protective investigator has conducted a more extensive investigation.

2. Thus, referral need not be made at the time a report is first received by the Department even if the report provides information to place the case in one of the categories set forth in N.J.A.C. 3A:10-5.1(b). This information should be supported by the belief of the child protective investigator. This does not mean that the child protective investigator must have completed an investigation and secured solid evidence of abuse or neglect. Rather, cases falling within these categories must be referred at the point at which the child protective investigator has some suspicion that the child's condition or injury probably was not accidentally caused.

(f) Immediate, prompt referrals of abuse or neglect cases are important, and in some cases essential. Hence, written referrals on a Department-specified form which contains a narrative description of the essential facts, shall be sent to the prosecutor as soon as the child protective investigator determines that referral is required by this chapter. The referral shall be made as soon as possible by telephone, with written confirmation being sent within 48 hours thereafter. The Department shall establish, consistent with this chapter, specific procedures for making referrals to identify cases that this chapter requires to be referred and designation of a person in each local office to act as a liaison to the prosecutor. Copies of procedures shall be furnished to all county prosecutors.

§ 3A:10-5.2 Department recommendations to prosecutors

(a) When referring a case to the prosecutor, the child protective investigator may already have information sufficient to arrive at a preliminary conclusion concerning the need for investigation by a law enforcement agency. This conclusion shall be based on the standards in this chapter. A recommendation and underlying reasons therefor shall be communicated to the prosecutor at the time the case is referred.

(b) Recognizing that the child protective investigator may have already conducted a preliminary investigation of the case, that the child protective investigator has some experience and expertise enabling him or her to assess the need for action by the prosecutor, that in some cases efforts already made to ameliorate the underlying problems may be undermined by the initiation of a police investigation and that the child protective investigator is also in a position to identify cases in which immediate action by a law enforcement agency is required, the prosecutor shall give due consideration to the recommendations of the Department. If the prosecutor determines to investigate a case notwithstanding a contrary recommendation by the Department, he or she should discuss the matter with the child protective investigator, his or her supervisor or the local office liaison before initiating the investigation.

§ 3A:10-5.3 Response by prosecutors

(a) In order to facilitate communication with the Department and coordinate handling of abuse and neglect cases, each county prosecutor shall designate an assistant prosecutor to serve as liaison to the Department's local office for such cases. The person so designated shall be responsible for keeping the Department informed as to the course of action taken by the prosecutor. In addition, and to the extent practicable, each prosecutor shall delegate to one or several investigators responsibility for conducting all investigations in abuse and neglect cases.

(b) The supervising detective of the county prosecutor's office shall determine if law enforcement will be involved in the investigation and shall notify a Department representative. The prosecutor may take various courses of action upon receipt of a referral, among them, the following:

1. Advise the Department staff member making the referral that the prosecutor shall not undertake an investigation and request that the prosecutor be advised immediately of any indication of further or continuing abuse or neglect; or

2. With advance notice to the Department, undertake an initial investigation using, to the extent practicable, specially designated investigators or refer the matter to a designated officer in a local police department for initial investigation.

(c) After investigating a case, the prosecutor shall determine whether criminal prosecution must be undertaken. He or she should confer with the child protective investigator in making this determination and shall advise the child protective investigator of his or her decision.

§ 3A:10-5.4 Law enforcement assistance

(a) Each child protective investigator shall request assistance from and make every effort to coordinate investigative activities with local law enforcement pursuant to N.J.S.A. 9:6-8.28e and 8.29d, when conducting an investigation and whenever:

1. The child protective investigator needs personal protection;

2. The nature of the report suggests it;

3. There is an immediately life-threatening situation; or

4. Violence is occurring or is immediately threatened.

§ 3A:10-5.5 Coordination of a child protection investigation

(a) Each child protective investigator shall, when conducting a child protection investigation of a report in which law enforcement, a regional diagnostic and treatment center, a child advocacy center, medical and psychological personnel, or a multidisciplinary team is involved, participate in the coordination of the following activities:

1. Interviewing the alleged child victim and the alleged perpetrator;

2. Accessing appropriate investigative medical and psychological services; and

3. Making timely and appropriate linkages to treatment.

(b) Each child protective investigator shall make information developed during the investigation available on a timely basis to any party identified in (a) above and involved in the case, within the limits of N.J.S.A. 9:6-8.10a.

§ 3A:10-5.6 Medical evaluation and treatment

(a) The Department representative shall arrange for the alleged child victim and each of his or her siblings or any other child in the household to receive appropriate and immediate medical screening, care, and treatment pursuant to N.J.S.A. 9:6-8.30c, when an alleged child victim has been removed from his or her home. A medical professional shall release medical reports resulting from the screening, care, or treatment to a Department representative for the purpose of aiding in the finding of whether the alleged child victim has been abused or neglected, pursuant to N.J.S.A. 9:6-8.30c.

(b) The child protective investigator may arrange for a psychiatric or psychological evaluation and treatment for the alleged child victim with parental consent or with a court order, whenever the child protective investigator has reason to believe that the alleged child victim may have suffered serious emotional harm.

§ 3A:10-6.1 Services on an emergency basis

The Department representative shall offer the family services that are needed on an emergency basis pursuant to N.J.S.A. 30:4C-13 and 9:6-8.11, before completing the child protection investigation and until the child protection investigation is completed.

§ 3A:10-6.2 Emergency placement process

(a) The Department representative shall remove the alleged child victim from his or her current home or location and initiate an emergency placement process, if:

1. Any child in the home or location is determined to be unsafe and at imminent risk of harm in accordance with N.J.A.C. 3A:10-3.2 and 4.2; and

2. A plan which allows the alleged child victim to remain in his or her own home or location cannot be developed.

(b) The Department representative shall place an alleged child victim removed from his or her home or other location in a resource home or in a congregate care facility which is consistent with his or her service need.

(c) The Department representative shall make a reasonable effort to place the alleged child victim with his or her sibling, if:

1. The alleged child victim was placed on an emergency basis and has a sibling in placement; or

2. The alleged child victim and his or her sibling are being placed at the same time.

(d) The Department representative shall, within two court days of the emergency placement:

1. Return the child to his or her home when the Department representative has reason to believe that the child may do so safely; or

2. Petition the court for continued out-of-home placement.

§ 3A:10-6.3 Information provided to parent, caregiver, and relative

(a) The child protective investigator shall make every reasonable effort to notify the child's parent, caregiver, temporary caregiver, and institutional caregiver responsible for the child at the time of the removal, when an emergency removal is made pursuant to N.J.S.A. 9:6-8.29.

(b) A child protective investigator shall immediately:

1. Serve or attempt to serve written notice upon the parent, caregiver, or employee of an institution from which the child was removed, whenever a child has been taken into protective custody pursuant to N.J.S.A. 9:6-8.16; and

2. Begin a child protection investigation.

(c) The Department representative shall notify each adult relative of a child's out-of-home placement in accordance with N.J.A.C. 3A:11-1.6(c).

§ 3A:10-6.4 (Reserved)

§ 3A:10-7.1 Informing the alleged child victim, caregiver, and temporary caregiver about the investigation

(a) The child protective investigator shall notify the parent of the child subject of the investigation and the caregiver of the child subject of the investigation, if the child will remain in the custody of the caregiver, as soon as possible after interviewing or observing the child or any of his or her siblings that the child(ren) has been interviewed or observed.

(b) When an investigation is conducted in an institution, and any child other than the child subject of the investigation is interviewed without the knowledge and consent of the parent, the Department shall not be obligated to notify the parents of those children of the investigation.

(c) The child protective investigator shall provide the following people with the information specified in (d) below:

1. The alleged child victim in accordance with and in a manner appropriate to the alleged child victim's age, condition, and capacity to understand and cope with the information;

2. The alleged child victim's caregiver with physical custody at the time of the incident;

3. The caregiver with whom the alleged child victim normally resides; and

4. The caregiver to whom the alleged child victim will be returned, if the alleged child victim is in an institution at the time of the incident.

(d) The child protective investigator shall provide the following information to those people specified in (a) above:

1. That a report has been made, the nature of the allegation and that an investigation shall be conducted;

2. The name and telephone number of the child protective investigator assigned to investigate and his or her supervisor; and

3. That a child protective investigator is responsible for conducting an investigation pursuant to N.J.S.A. 30:4C-11 and 12 and 9:6-8.11.

(e) The child protective investigator shall delay notifying the persons specified in (a) and (c) above, as long as the delay does not appear to put the alleged child victim at risk, when the police, prosecutor or Deputy Attorney General has determined that notifying them would impede the investigation or litigation.

(f) The child protective investigator shall provide the information indicated in (b) above at the time of his or her initial contact with each person interviewed and named in (a) above.

(g) The child protective investigator shall inform the temporary caregiver of any alleged child victim who is in the care of that temporary caregiver at the time of the investigation of the provisions of (b) above, when that information is necessary for the temporary caregiver to provide care for the alleged child victim.

§ 3A:10-7.2 Information provided to alleged perpetrator about the investigation

The child protective investigator shall, upon initial contact, inform each person specifically alleged to be a perpetrator of abuse or neglect about the provisions of N.J.A.C. 3A:10-7.1 and that he or she has been named the alleged perpetrator of abuse or neglect, unless the police, prosecutor, or deputy attorney general advises the child protective investigator to delay providing the information, or when providing such information will jeopardize the investigation.

§ 3A:10-7.3 Investigation findings

(a) The Department representative shall evaluate the available information and, for each allegation, determine whether abuse or neglect has occurred, and shall make every reasonable effort to identify the perpetrator for each allegation of abuse or neglect.

(b) The Department representative shall make findings for each report in accordance with (c) below within 60 days of the report being received at the State Central Registry, except for good cause approved by the office manager or designee. The office manager or designee may grant extensions in increments of 30 days, if the child protective investigator is continuing efforts to confirm credible information.

(c) For each allegation, the Department representative shall make a finding that an allegation is "substantiated," "established," "not established," or "unfounded."

1. An allegation shall be "substantiated" if the preponderance of the evidence indicates that a child is an "abused or neglected child" as defined in N.J.S.A. 9:6-8.21 and either the investigation indicates the existence of any of the circumstances in N.J.A.C. 3A:10-7.4 or substantiation is warranted based on consideration of the aggravating and mitigating factors listed in N.J.A.C. 3A:10-7.5.

2. An allegation shall be "established" if the preponderance of the evidence indicates that a child is an "abused or neglected child" as defined in N.J.S.A. 9:6-8.21, but the act or acts committed or omitted do not warrant a finding of "substantiated" as defined in (c)1 above.

3. An allegation shall be "not established" if there is not a preponderance of the evidence that a child is an abused or neglected child as defined in N.J.S.A. 9:6-8.21, but evidence indicates that the child was harmed or was placed at risk of harm.

4. An allegation shall be "unfounded" if there is not a preponderance of the evidence indicating that a child is an abused or neglected child as defined in N.J.S.A. 9:6-8.21, and the evidence indicates that a child was not harmed or placed at risk of harm.

(d) A finding of either established or substantiated shall constitute a determination by the Department that a child is an abused or neglected child pursuant to N.J.S.A. 9:6-8.21. A finding of either not established or unfounded shall constitute a determination by the Department that a child is not an abused or neglected child pursuant to N.J.S.A. 9:6-8.21.

(e) The Department representative shall determine if abuse or neglect occurred. The Department representative shall substantiate abuse or neglect if one or more of the circumstances in N.J.A.C. 3A:10-7.4 exists. Absent any of the circumstances in N.J.A.C. 3A:10-7.4, the Department representative shall determine if the abuse or neglect is substantiated or established based on the factors listed in N.J.A.C. 3A:10-7.5.

(f) The Department representative shall not make a finding of substantiated or established on an allegation of medical neglect or medical neglect of a disabled infant when the harm or risk of harm to a child is the sole result of treatment in good faith by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof. The Department representative may need to develop a safety protection plan after consulting with the deputy attorney general.

(g) Pursuant to N.J.S.A. 9:6-1 et seq., the Superior Court, Chancery Division, has jurisdiction to adjudicate determinations that a child is an abused or neglected child.

(h) The Department shall retain the administrative authority to:

1. Determine whether an allegation of conduct determined to be abuse or neglect by the Superior Court, Chancery Division, is established or substantiated;

2. Determine whether an allegation of conduct determined to not be abuse or neglect by the Superior Court, Chancery Division, is not established or unfounded; and

3. Determine the finding for each allegation of abuse or neglect that is not adjudicated by the Superior Court, Chancery Division.

(i) A determination by the Superior Court that abuse or neglect did occur shall not extinguish a perpetrator's right or eligibility to contest a substantiated finding of the allegation by administrative hearing pursuant to N.J.A.C. 3A:5.

§ 3A:10-7.4 Required findings of substantiated

(a) The existence of any one or more of the following circumstances shall require a finding of substantiated when the investigation indicates:

1. The death or near death of a child as a result of abuse or neglect;

2. Subjecting a child to sexual activity or exposure to inappropriate sexual activity or materials;

3. The infliction of injury or creation of a condition requiring a child to be hospitalized or to receive significant medical attention;

4. Repeated instances of physical abuse committed by the perpetrator against any child;

5. Failure to take reasonable action to protect a child from sexual abuse or repeated instances of physical abuse under circumstances where the parent or guardian knew or should have known that such abuse was occurring; or

6. Depriving a child of necessary care which either caused serious harm or created a substantial risk of serious harm.

§ 3A:10-7.5 Factors to be considered in determining a finding of substantiated or established

(a) The Department representative shall consider the aggravating factors below in determining if abuse or neglect should be substantiated or established:

1. Institutional abuse or neglect;

2. The perpetrator's failure to comply with court orders or clearly established or agreed-upon conditions designed to ensure the child's safety, such as a child safety plan or case plan;

3. The tender age, delayed developmental status, or other vulnerability of the child;

4. Any significant or lasting physical, psychological, or emotional impact on the child;

5. An attempt to inflict any significant or lasting physical, psychological, or emotional harm on the child;

6. Evidence suggesting a repetition or pattern of abuse or neglect, including multiple instances in which abuse or neglect was substantiated or established; and

7. The child's safety requires separation of the child from the perpetrator.

(b) The Department representative shall consider mitigating factors below in determining if abuse or neglect should be substantiated or established:

1. Remedial actions taken by the alleged perpetrator before the investigation was concluded;

2. Extraordinary, situational, or temporary stressors that caused the parent or guardian to act in an uncharacteristic abusive or neglectful manner;

3. The isolated or aberrational nature of the abuse or neglect; and

4. The limited, minor, or negligible physical, psychological, or emotional impact of the abuse or neglect on the child.

§ 3A:10-7.6 Notification of finding

(a) The Department representative shall provide notification of the finding to those persons specified in (c) through (e) below. The Department representative shall delay the notification as long as the delay does not appear to put the alleged child victim at risk, when a case is in litigation or a report is under criminal investigation and the police, prosecutor, or deputy attorney general has determined that notification of the investigation findings to persons in (c) through (e) below, would interfere with the litigation.

1. A Department representative shall consult with the deputy attorney general before a finding of unfounded or not established is made on a case in litigation.

2. The Department representative shall provide written notification by either personal service or regular and certified mail to the perpetrator of each substantiated or established allegation.

3. The Department representative shall provide written notification of the finding by regular mail to those persons specified in (d) and (e) below.

(b) The child protective investigator shall notify persons specified in (c) through (e) below of the finding no later than 10 days from the date upon which the Department made a finding, unless for good cause approved by a supervisor.

(c) The child protective investigator shall advise each person identified as a perpetrator in a report of substantiated or established abuse or neglect that:

1. He or she has been identified as a perpetrator of abuse or neglect;

2. His or her name and identifying information are entered into the Department's child abuse registry, pursuant to N.J.S.A. 9:6-8.11; and

3. He or she shall have an opportunity to dispute a finding of either substantiated or established abuse or neglect, in accordance with N.J.A.C. 3A:5.

(d) The child protective investigator shall advise each alleged perpetrator of the finding, when a report is unfounded, except as limited by (a) and (b) above.

(e) The child protective investigator shall advise the following people that the investigation has been completed and the finding of the investigation, upon completion of the investigation:

1. The caregiver with physical custody at the time of the incident;

2. The parent with whom the alleged child victim normally resides;

3. The parent to whom the alleged child victim will be returned, if the alleged child victim was in an institution at the time of the incident; and

4. The institutional caregiver or chief administrator of the institution, if the alleged child victim was in institutional placement.

§ 3A:10-7.7 Use of findings

(a) A Department employee shall disclose only substantiated findings for a Child Abuse Record Information (CARI) check.

(b) Only unfounded findings shall be eligible for expunction pursuant to N.J.A.C. 3A:10-8.

§ 3A:10-7.8 Other notification at conclusion of investigation

(a) The child protective investigator shall advise the following people whether further services shall be offered or provided to an alleged child victim or to his or her family, upon completion of the investigation:

1. The caregiver with physical custody at the time of the incident;

2. The parent with whom the alleged child victim normally resides; and

3. The parent to whom the alleged child victim will be returned, if the alleged child victim was in an institution at the time of the incident.

(b) The child protective investigator shall advise each alleged child victim of the completion of the investigation in a manner determined to be consistent with and appropriate to the alleged child victim's age, condition and ability to understand the basis for the Department's involvement; the alleged child victim's ability to cope with the information; and the alleged child victim's ability to participate in the development, discussion or implementation of the case plan pursuant to N.J.S.A. 9:6-8.10a(c).

(c) The child protective investigator may, and upon written request shall, advise the reporter of the disposition of the investigation, pursuant to N.J.S.A. 9:6-8.10a(b)(18).

(d) The child protective investigator shall forward information within 10 days from the date upon which the child protective investigator makes a substantiated finding, pursuant to N.J.S.A. 9:6-8.10a(e), to the police in the jurisdiction where:

1. The child victim resides;

2. The incident of abuse or neglect occurred; and

3. The child victim may be at risk of future harm.

(e) The written information regarding the report of abuse or neglect shall include:

1. The name and age of each child victim and his or her address;

2. The name and age of each of the child victim's siblings, if any, obtained by the child protective investigator during his or her investigation;

3. The name of each perpetrator, his or her address, and his or her relationship to each child victim;

4. The name and address of the institution, if the incident occurred in an institution;

5. The date the State Central Registry created the report;

6. The date the child protective investigator completed the investigation;

7. Whether the substantiated finding was abuse, neglect, or a combination thereof;

8. A summary of the circumstances of the incident, including a description of the child victim's injuries, if any, and a statement about the severity of the incident;

9. A statement as to whether a child protective investigator reported the incident to the county prosecutor; and

10. A statement as to whether a child protective investigator investigated a prior allegation of abuse or neglect regarding the alleged child victim.

(f) The child protective investigator shall advise the police that the information provided must be kept confidential pursuant to N.J.S.A. 9:6-8.10a(e), in the notification, whereby the police shall be prohibited from sharing the information with anyone except as authorized under the provisions of N.J.S.A. 9:6-8.10a.

(g) The child protective investigator shall advise the police, in writing, to destroy the information regarding the substantiated report, if a substantiated finding is later reversed by an appeal, a court order, or an internal Departmental decision, and a Department representative had notified the police of the substantiated report in accordance with (d) and (e) above.

(h) The child protective investigator may advise others, including the non-custodial parent, of the finding only as permitted by N.J.S.A. 9:6-8.10a.

§ 3A:10-8.1 Expunction limited to a record that consists of an unfounded report; contents of record to be expunged

(a) A Department employee shall expunge a record in any format relating to an unfounded finding within the time frames set forth in N.J.A.C. 3A:10-8.2, pursuant to N.J.S.A. 9:6-8.40a, unless one of the exceptions listed in N.J.A.C. 3A:10-8.3 exists. A record scheduled for expunction shall be expunged of identifying information regarding the alleged perpetrator.

(b) The Department shall retain each record which contains a substantiated, established, or not established report, as specified in N.J.A.C. 3A:10-7.3.

§ 3A:10-8.2 Time frames and start date

(a) A Department employee shall expunge a record which consists of an unfounded report, as specified in N.J.A.C. 3A:10-7.3(c)4, three years after determining that the report was unfounded, unless one of the exceptions listed in N.J.A.C. 3A:10-8.3 exists.

(b) If unfounded, a Department employee shall expunge the entire record, containing the original report and each subsequent unfounded report, three years after the date of the finding associated with the last report, if a subsequent report received during the three years prior to expunction is likewise unfounded, unless one of the exceptions listed in N.J.A.C. 3A:10-8.3 exists.

(c) The Department shall limit routine expunction of records to those which consist of unfounded reports, as specified in N.J.A.C. 3A:10-7.3(c)4, for which the finding was made on or after the April 7, 1997 enactment of N.J.S.A. 9:6-8.40a.

(d) The Department shall limit the expunction of a record to its computer file only, if the record consists of a report unfounded prior to April 7, 1997.

(e) An alleged perpetrator may submit a request, in writing, to the Department of Children and Families, Closed Records Liaison, PO Box 717, Trenton, New Jersey 08625-0717, when he or she seeks expunction of a record that consists of a report that was unfounded prior to April 7, 1997. The Department's Closed Records Liaison shall make a determination on each request in accordance with the criteria contained in this subchapter, and shall advise the alleged perpetrator, in writing, as to whether the Department shall expunge or retain the record.

§ 3A:10-8.3 When the Department retains rather than expunges a record

(a) The Department employee shall retain a record which contains a report unfounded on or after April 7, 1997, when one or more of the following circumstances exist:

1. The investigation of the report results in more than one finding, including both an unfounded and a substantiated, established, or not established finding;

2. The Division provided services to the alleged child victim, a member of his or her family or household, or the alleged perpetrator, and three years have not passed since a service case was closed or provision of services has been concluded;

3. The State Central Registry receives a subsequent report regarding the alleged child victim, a member of his or her family or household, or the alleged perpetrator, during the three years prior to eligibility for expunction, and the subsequent report is substantiated, established, or not established;

4. The outcome of a child protection investigation, a criminal investigation or a court proceeding involving the alleged child victim, a member of his or her family or household or the alleged perpetrator is pending;

5. A court of competent jurisdiction orders the Department to retain the record;

6. The Commissioner of the Department of Children and Families or designee requests that the Department retain the record;

7. The State Central Registry receives a subsequent report that the Department is investigating. If the subsequent report is unfounded, then the record is evaluated for expunction three years after the investigation is completed;

8. If an allegation is pending or under investigation at the time of expunction review, the record shall be retained for three years after the case is closed, if that allegation is likewise unfounded, or three years from when the service case is closed; or

9. If a service request is pending or under investigation at the time of expunction review, the record is retained until three years after the case is closed, if that allegation is likewise unfounded, or three years from when the service case is closed.

(b) The Division shall retain the record of any case where the Division provided out-of-home placement-related services, including, but not limited to, Medicaid, board payments, clothing allowance, or Child Placement Review Board review.

§ 3A:10-8.4 When an IAIU record is expunged

(a) For investigations of a resource parent or household member completed by the Institutional Abuse Investigation Unit, the Department representative shall expunge the IAIU record in three years as long as none of the reasons to retain the record as listed in N.J.A.C. 3A:10-8.3 exist. The alleged child victim's case is not subject to expunction.

(b) The Department shall expunge a report involving an IAIU investigation resulting in a finding of unfounded three years after the corrective action plan was completed, unless another allegation is received within the three-year time period.

§ 3A:10-8.5 Notification of record expunction

A Department representative shall include information about record expunction as set forth in this subchapter, when providing notification of the finding in accordance with N.J.A.C. 3A:10-7.6.

Title 3A, Chapter 11 -- Service Delivery General Provisions

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 9:3A-7f and g, and 30:4C-4(h).

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2017 d.192, effective October 2, 2017.

See: 49 N.J.R. 1579(a), 49 N.J.R. 3498(b).

Chapter 11, Service Delivery General Provisions, was readopted as R.2017 d.192, effective October 2, 2017.

§ 3A:11-1.1 Purpose

(a) The purpose of the chapters on service delivery, N.J.A.C. 3A:3, 3A:12, 3A:13, 3A:18, and 3A:21 is to describe certain services provided by the Division, the processes used by the Division to determine what actions to take in response to an abuse or neglect report, referral, or application for services, what applicants and clients may expect of the Division and any standards and requirements for applicants, clients, and the Division related to those services.

(b) The purpose of this chapter is to provide certain general provisions and to define certain words and terms to be used throughout the chapters on service delivery by the Division, so as to provide standardization and ease of accessibility to the user of the New Jersey Administrative Code. The definitions stated at N.J.A.C. 3A:11-1.3 apply to N.J.A.C. 3A:3, 3A:5, 3A:12, 3A:13, 3A:18, 3A:20, and 3A:21.

§ 3A:11-1.2 Scope

The provisions of this chapter and N.J.A.C. 3A:3, 3A:12, 3A:13, 3A:18, and 3A:21 apply to each Division representative, each applicant for services from the Division, each client receiving services from the Division, each person referred for Division services, each person making an abuse or neglect report or referral to the Division, and each out-of-home placement provider for a child under the supervision of the Division.

§ 3A:11-1.3 Definitions

The following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

"Abuse or neglect report" means an account or statement describing a specific incident or set of circumstances of suspected abuse or neglect.

"Abused or neglected child" means a child:

(a) Less than 18 years of age:

1. Whose parent or guardian inflicts, or allows to be inflicted upon such child, physical injury by other than accidental means, which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ;

2. Whose parent or guardian creates or allows to be created a substantial or ongoing risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted loss or impairment of the function of any bodily organ;

3. Whose parent or guardian commits or allows to be committed an act of sexual abuse against the child;

4. Whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as the result of the failure of his or her parent or guardian to exercise a minimum degree of care:

i. In supplying the child with adequate food, clothing, shelter, education, medical or surgical care, though financially able to do so, or though offered financial or other reasonable means to do so; or

ii. In providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or substantial risk thereof, including the infliction of excessive corporal punishment; or by any other acts of a similarly serious nature requiring the aid of the court;

5. Who has been willfully abandoned by his or her parent or guardian;

6. Upon whom excessive physical restraint has been used under circumstances which do not indicate that the child's behavior is harmful to himself or herself, others or property; or

7. Who is in an institution other than a day school, and:

i. Has been placed there inappropriately for a continued period of time with the knowledge that the placement has resulted or may continue to result in harm to the child's mental or physical well-being; or

ii. Has been willfully isolated from ordinary social contact under circumstances which indicate emotional or social deprivation;

8. No child who in good faith is under treatment by spiritual means alone, through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof, shall for this reason alone be considered to be abused or neglected.

"Adoption" means the legal transfer of all parental rights and responsibilities from the parent to a person willing to assume those rights and responsibilities.

"Adoption subsidy" means payments for the care and maintenance of a special needs child, as defined in N.J.A.C. 3A:23-1.1.

"Ambulance" means a public or private, first aid, or rescue squad, vehicle, or station that is staffed 24 hours a day, seven days a week, for the purpose of providing emergency medical care or transporting an individual in need of medical services to a licensed general hospital or a medical center operating in the State of New Jersey under applicable State law.

"Applicant" means a person, either adult or minor, who requests services from the Division, for himself or herself or his or her family; or a person referred by another person or agency for child welfare services. For the purposes of this chapter and N.J.A.C. 3A:3, 3A:12, 3A:13, 3A:18, and 3A:21, the term "applicant" does not include those persons applying to become resource parents or other providers of service.

"Assessment" means the gathering of information, evaluation of the information gathered to determine the client's service needs, and the determination of who shall provide the needed services.

"Camp" means a set of recreational and developmental activities on either a day or residential basis for limited duration during the summer months, as licensed by the Department of Health.

"Case management" means the method by which the Division addresses the client's needs and develops and administers a case plan through the direct activities of the Division's representatives who provide or coordinate the delivery of appropriate services.

"Case plan" means a written statement of the Division's intervention on behalf of a child, which includes identification of the problems which necessitate Division involvement with the family, the services or actions needed, who will accomplish or provide them, and the planned time frame for providing each service.

"Child" means any person less than 18 years of age, except as otherwise provided by N.J.S.A. 9:17B-2f.

"Child advocate" means a person specializing in the field of child advocacy who demonstrates his or her education or experience in that field to the satisfaction of the Division, but is limited to such persons who have had direct involvement in permanency planning for the child. Child advocates include, but are not limited to, Court Appointed Special Advocates (CASA) and Law Guardians.

"Child care" means a series of comprehensive and coordinated activities provided to each individual child for a portion of the day, which provides direct personal care, attention, and supervision, which may include education, socialization, nutritional, referral, and transportation activities, and which is provided in a licensed child care center or school-age child care program, in a registered family child care home, or in the child's own home by an approved individual.

"Child welfare information" means every record, computer file, verbal or written report, and evaluation relating to any service provided by the Division, except records defined as protective service information.

"Child welfare services" or "welfare services" or "services" means consultation, counseling, and referral to or utilization of available resources, for the purpose of determining and correcting or adjusting matters and circumstances which are endangering the welfare of a child, and for the purpose of promoting his or her proper development and adjustment in the family and the community; also, as defined under Title IV-B of the Social Security Act, 42 U.S.C. §§ 620 et seq., as from time to time amended.

"Client" means any person, adult or child, including an applicant, receiving a service from the Division, or any person referred to the Division for services.

"Client's consent" means written authorization by an adult client or, if the client is a minor, by the parent, permitting the Division to release confidential information about himself or herself or about his or her child to a third party as permitted by statute.

"Clothing allowance" means the provision of a specific amount of money provided at specified times for the purpose of replenishing the basic wardrobe of a child while he or she is in out-of-home placement.

"Collateral contact" means a contact made with a person other than the reporter or those who are subject(s) of the abuse or neglect report or referral in order to collect additional information.

"Commissioner" means the Commissioner of the Department of Children and Families.

"Contract" means a method of social service delivery in which the Division signs a formal agreement with a service provider to provide units of service at a specified cost to Division clients who meet specific eligibility criteria, pursuant to a case plan.

"CP&P Legal Guardianship Subsidy Program" means a service provided by the Division in accordance with N.J.A.C. 3A:20 to provide financial support to certain children for whom a relative or family friend has obtained kinship legal guardianship pursuant to N.J.S.A. 3B:12A-1 et seq.

"Custody" means continuing responsibility for the person of a child, as established by a surrender and release of custody or consent to adoption, for the purpose of providing necessary welfare services, or maintenance, or both. (N.J.S.A. 30:4C-2(d))

"Day school" means a public or private school which provides general or special educational services to day students in grades kindergarten through 12. Day school does not include a residential facility, whether public or private, which provides care on a 24-hour basis.

"Department" means the Department of Children and Families.

"Direct services" or "direct service delivery" means a method of service delivery in which Division representatives or staff, either directly or through a resource parent, provide a service to the client.

"Director" means the Director of the Division of Child Protection and Permanency in the Department of Children and Families.

"Discharge planning and aftercare services" means the assessment and identification of a client's need for services when the client is discharged from a residential facility, medical treatment facility, correctional facility, or day treatment program and recommending or arranging for the services for the client.

"Division" or "CP&P" means the Division of Child Protection and Permanency in the Department of Children and Families.

"Division representative" means a professional or paraprofessional employee of the Division of Child Protection and Permanency.

"Domestic violence services" means referral to community partners that support the safety of victims of domestic violence and their dependent children and provide services to perpetrators of domestic violence. Services may include:

i. Hotline access;

ii. Emergency shelter entry and care;

iii. Legal, financial, and housing advocacy services;

iv. Counseling for victims, children, and perpetrators of domestic violence; and

v. Children's services.

"Educational support" means serving as an educational advocate for a child, collecting and providing educational information to relevant parties including, but not limited to, the child, parents, resource parents, school staff, and other interested parties, if appropriate, and referring the child to appropriate services or resources to maximize the child's potential. This may include, but is not limited to:

i. Referral to the Child Study Team for an appropriate educational program for the child;

ii. Facilitating the child's access to educational opportunities, including participation in extracurricular activities; and

iii. Informing the child, age 14 and over, of his or her educational rights.

"Emergency maintenance service" means the provision of food, clothing, shelter, furniture, appliances and similar necessities, needed by a client in a crisis, and not available elsewhere.

"Emergency medical responder" means a trained medical professional, paid or volunteer, certified to provide emergency medical care to an individual in a facility, or on a medical transport vehicle. "Emergency medical responder" includes: emergency medical technician or "EMT," nurse, paramedic, physician assistant, or rescue squad staff.

"Expert" means a person duly credentialed in the state in which he or she practices, specializing in the field of pediatric, neurological or psychiatric medicine; nursing; psychology; social work; substance abuse; or other fields requiring special experience or education, which may be helpful to the Division.

"Family friend" means a person who is connected to a child or the child's parent by an established positive psychological or emotional relationship and not a biological or legal relationship.

"Family preservation services" means an intensive, in-home, family education and crisis intervention program to prevent out-of-home placement and lasting up to eight weeks, which utilizes the services of a trained professional to provide a variety of contracted services to a client family for up to 24 hours a day.

"Fire department" means a municipal, county, or volunteer fire station or house that is staffed 24 hours a day, seven days a week, by trained and licensed firefighters charged with the prevention and extinguishing of fires.

"Firefighter" means a member of a fire department trained to prevent and extinguish fires.

"Government entity" means a Federal, State or local government agency, body or official that has responsibility under the law to protect children from abuse and neglect.

"Health care services" means comprehensive and preventive medical, dental, behavioral health, and developmental services, including screening, assessment, examination, and treatment services, and the services covered by the Early and Periodic Screening, Diagnosis and Treatment benefit.

"Homemaker service" means personal care, household tasks and the activities of daily living provided to a client in his or her own home or training in these activities.

"Hospital" means a licensed general hospital or a medical center operating in the State of New Jersey under applicable State law.

"Independent living" means the maintenance of an adolescent age 16 to his or her 21st birthday in a living arrangement that allows the adolescent to function eventually on his or her own when circumstances preclude the adolescent from returning to the person or persons with whom he or she resided at the time of the abuse or neglect report, referral or application for services, no appropriate relative or family friend is able or willing to assume care of the adolescent, no family is able or willing to provide kinship legal guardianship or to legally adopt the adolescent, or the adolescent rejects each of these living arrangements.

"Infant" means a live child who is or appears to be no more than 30 days old.

"Investigation" means the activity of gathering information relevant to making a determination as to whether child abuse or neglect occurred.

"Kinship caregiver assessment" means a written report submitted by the Division to the court regarding the suitability of a relative or family friend to be designated legal guardian of a child in accordance with the Kinship Legal Guardianship Act, N.J.S.A. 3B:12A-5.

"Local office" means an office of the Division of Child Protection and Permanency, which provides direct services to clients and refers clients to other services within a limited geographic area of New Jersey. The services provided may be child welfare services, child protective services, and adoption services. A local office also provides supportive services to resource family parents.

"Maintenance" means monies expended by the Division to procure board, lodging, clothing, medical, dental, psychological and hospital care and transportation or any other similar or specialized commodity or service furnished to or on behalf of, or for a child.

"Media" means a representative of the press, including a news reporter, editor, producer or other representative of a newspaper or a magazine, or another printed or on-line publication, or a radio or television station, network or system.

"Member of the public" means an individual from the general public who does not represent the media.

"Mentor services" means providing a caring adult in a child's or adolescent's life whose goal is to form a positive relationship with the child or adolescent by serving as a good role model and developing a caring and trusting social relationship and engaging the child or adolescent in activities. Mentoring is provided through a variety of ways and settings including, but not limited to:

i. Exposing the child or adolescent to recreational activities;

ii. Assisting the child or adolescent in the development of life skills;

iii. Job shadowing;

iv. Educational mentors;

v. Mentoring of a child or adolescent doing volunteer work in a private non-profit agency or organization; or

vi. Mentoring of a child or adolescent by a house of worship.

"Near fatality" means a serious or critical condition, as certified by a physician, in which a child suffers a permanent mental or physical impairment, a life-threatening injury or a condition that creates a probability of death within the foreseeable future.

"Out-of-home placement" or "placement" means physically locating a child by the Division in any out-of-home setting, including a resource family home, group home, shelter care or a residential facility for temporary treatment or long-term care, and not including placement with the child's birth parent or a parent of a child whose adoption has been finalized. The following are the definitions for the different types of out-of-home placement services:

i. "Adoptive care" means a type of resource family home in which care is provided for a child placed by the Division of Child Protection and Permanency for the purpose of adoption by the resource family parent until said adoption is finalized.

ii. "Foster care" means regular foster care as provided in a resource family home in which care is provided for a child in need of temporary out-of-home placement for protective or other social services reasons. "Foster care" shall not include placement with the child's birth parent or a parent of a child whose adoption has been finalized.

iii. "Group home" means any public or private establishment other than a resource family home that provides board, lodging, care, and treatment services on a 24-hour basis to 12 or fewer children in a home-like, community-based setting. A group home typically serves children with less severe behavioral and emotional problems, who are capable of functioning in a home-based setting.

iv. "Residential facility" means any public or private establishment that provides room, board, care and treatment services for 13 or more children on a 24-hour a day basis, in accordance with N.J.A.C. 3A:55-1.2. A residential facility may provide services for children with emotional or behavioral problems, drug and alcohol treatment needs, psychiatric problems, physical disabilities or programs that serve children with emotional or behavioral problems using adventure activities as a major treatment component.

v. "Resource family home" means a private residence, located in New Jersey, other than a children's group home, treatment home, teaching family home, alternative care home, or shelter home, in which board, lodging, care, and temporary out-of-home placement services are provided by a resource family parent on a 24-hour basis to a child under the auspices of the Division of Child Protection and Permanency, including a home licensed by the Division of Child Protection and Permanency for the placement of a child for the purpose of adoption. A resource family home does not include a child living with his or her own birth parent or parent who has adopted that child. A resource family home may provide one or more of the following services:

a. Regular foster care;

b. Kinship care; and

c. Adoptive care.

vi. "Selected adoptive home" means a resource family parent who has been licensed as a resource family home for the purpose of providing adoptive care to a child who does not currently reside with this resource family parent.

vii. "Shelter care" means a public or private facility or residence that provides 24-hour-a-day residential care in a non-physically restrictive environment for a period of time usually not exceeding 30 days.

viii. "Supervised transitional living home" means a type of group home, which serves 12 or fewer children who are 16 years of age or older, require minimum guidance from staff members in preparation to live independently, and demonstrate maturity to function with minimal adult supervision.

ix. "Treatment home" means a type of group home, which is an agency-operated residence serving five or fewer children who are capable of community living but who need a small group environment and intensive supervision by staff members in order to ameliorate emotional, social, or behavioral difficulties.

"Parent" means any birth parent, adoptive parent, stepparent, guardian or any person, who has assumed responsibility for the care, custody or control of a child or upon whom there is a legal duty for such care.

"Parent or guardian" means any birth parent, adoptive parent, resource family parent, stepparent, paramour of a parent or any person, who has assumed responsibility for the care, custody or control of a child or upon whom there is a legal duty for such care. Parent or guardian includes a teacher, employee or volunteer, whether compensated or uncompensated, of an institution who is responsible for the child's welfare and any other staff person of an institution, regardless of whether or not the person is responsible for the care or supervision of the child. Parent or guardian also includes a teaching staff member or other employee, whether compensated or uncompensated, of a day school.

"Permanency planning" means the full range of case practice activities and services directed toward:

i. Maintaining a child in his or her own home;

ii. Returning a child to his or her own home when out-of-home placement has become necessary; or

iii. Pursuing an alternate permanent living arrangement for the child.

"Placement review" means the periodic review of the circumstances of a child's out-of-home placement, conducted by a Division representative who is not responsible for the case management or delivery of services to either the child who is the subject of the placement review or the child's parent, for the purpose of assuring that the child's permanent plan is being implemented, as required by State and Federal law.

"Police station" means a manned State, county or municipal police station, State trooper barracks, campus police headquarters, housing police, or community policing substations operating within the State of New Jersey.

"Post-adoption services" means all services offered by or through the auspices of the Division to any party involved in an adoption after finalization of the adoption.

"Pre-and post-natal services" means the provision of social services and maintenance for medical and out-of-home placement services related to pregnancy and childbirth.

"Protective service information" means a suspected abuse or neglect report made pursuant to N.J.S.A. 9:6-1 et seq.; every record, computer file, verbal or written report and evaluation developed or received by the Division pursuant to the investigation and evaluation of such abuse or neglect report; and every record and report developed and received by the Division for services and treatment subsequently provided to the family.

"Psychological/therapeutic services" means services to assess and to treat a variety of problems related to behavior, problems of living, or psychopathology.

"Reasonable efforts" means the provision of services to the family that are individually assessed to be relevant to the case goal, coordinated with other services, available and accessible and that have a realistic potential to meet the child's needs for a safe, secure, and permanent relationship with a family or another permanent arrangement.

"Referral" means a verbal or written statement made to the Division by a reporter, which indicates a possible need for a child welfare services assessment for a child or family.

"Relative" means any birth or adoptive brother, sister, stepbrother and stepsister, grandparent, uncle, aunt, first cousin, as well as relatives of half blood.

"Reporter" means an individual who contacts the State Central Registry to make an abuse or neglect report, a child welfare services referral or a request for social services and does not include a news reporter in his or her professional capacity.

"Respite care" means the provision of temporary care for a child to give a period of relief for the child's temporary or permanent caregiver, either in-home or out-of-home.

"Safe Haven for Infants Hotline" means the toll-free, 24-hour hotline, established and operated in the State Central Registry of the Division of Child Protection and Permanency in the Department of Children and Families, pursuant to N.J.S.A. 30:4C-15.9.

"Safe haven infant" means a live infant who is or appears to be no more than 30 days old, who was voluntarily given to an officer at a police station, firefighter at a fire department, emergency medical personnel in an ambulance, or an employee of a hospital emergency department by a parent wanting to permanently give up rights to the infant or a person acting on behalf of the parent, pursuant to the intent of the New Jersey Safe Haven Infant Protection Act, N.J.S.A. 30:4C-15.5 et seq.

"Satisfactory academic progress" means the standard that an institution adopts to determine eligibility for Federal student aid programs under Title IV of the Higher Education Act of 1965, 20 U.S.C. § 1070a, as amended, and its implementing regulations and rules.

"Self-sufficiency skills" means the basic life skills necessary to make the transition from out-of-home placement to living in society as a productive adult.

"Sexual abuse" means contacts or actions between a child and a parent or caregiver for the purpose of sexual stimulation of either that person or another person. Sexual abuse includes:

i. The employment, use, persuasion, inducement, enticement or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct;

ii. Sexual conduct including molestation, prostitution, other forms of sexual exploitation of children or incest; or

iii. Sexual penetration and sexual contact as defined in N.J.S.A. 2C:14-1 and a prohibited sexual act as defined in N.J.S.A. 2C:24-4.

"Substance use disorder services" means preventive, treatment or recovery services provided in a culturally sensitive environment to CP&P-supervised adolescents or parents of CP&P-supervised children. Specific services include:

i. Assessment and referral;

ii. Case management;

iii. Detoxification;

iv. Short-term residential treatment;

v. Long-term residential treatment;

vi. Halfway house treatment;

vii. Outpatient and intensive outpatient treatment;

viii. Medication-assisted treatment; and

ix. Recovery supports.

"Surrender" means a voluntary relinquishment of all parental rights by a birth parent, adoptive parent, or other person or agency authorized to exercise these rights by law, court order or otherwise, for purposes of allowing a child to be adopted. "Surrender" includes identified surrenders authorized by N.J.S.A. 9:3-41(d).

"Third-party report" means a confidential report prepared by a psychiatrist, psychologist, physician, social worker, child study team or other non-Division person or agency, which is shared with the Division.

"Title XIX Medicaid" means medical assistance provided to certain persons with low income and limited resources as authorized under Title XIX (Medicaid) of the Social Security Act (42 U.S.C. § 1396 et seq.).

"Transportation" means the activity of providing the client access to and from community resources or visitation with family members, as required to implement a case plan, for example, as in N.J.A.C. 3A:15.

"Tuition" means, for the purposes of the Tuition Program, N.J.S.A. 30:4C-101 et seq., the tuition charges and fees imposed by a New Jersey public institution of higher education or county vocational school providing post-secondary vocational education for enrollment at the institution or school.

"Tuition Program renewal" means any application submitted subsequent to the initial application by the Tuition Program applicant, including, but not limited to, program applicants whose first application was rejected.

§ 3A:11-1.4 Rights of applicants and clients

(a) Any person who currently resides in New Jersey shall have the right to apply for any child welfare services or child protective services provided by the Division.

(b) Any person within New Jersey may apply for child welfare services or protective services as specified in N.J.S.A. 30:4C-11.

(c) Anyone requesting to apply in person for services shall be given the opportunity to do so immediately.

(d) The applicant, client, or representative requesting or requiring services shall have the right to make application in writing.

(e) The applicant or client shall receive written information about:

1. The Division's authority to provide service and conduct protective service investigations;

2. Services available through the Division;

3. The Division's mission;

4. The role of the Division representative;

5. The rights of applicants and clients including their right to consult an attorney;

6. When and how an applicant or client may appeal an action taken by or decision made by the Division;

7. The definition of an abused or neglected child;

8. The purpose and general procedures for a child protective service investigation;

9. Parental financial responsibilities when receiving Division services;

10. How to reach the Division by telephone during normal working hours and after working hours;

11. Child Placement Review and placement reviews when placement has been requested or is otherwise indicated; and

12. The Notice of Privacy Practices pursuant to the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. §§ 1320d.

(f) The Division shall not discriminate against an applicant or client on the basis of race; color; ethnicity; national origin; age; handicapping condition; gender; religion; marital, civil union, domestic partnership, parental or birth status; affectional or sexual orientation, as defined at N.J.S.A. 10:5-5hh; or gender identity or expression, as defined at N.J.S.A. 10:5-5rr.

(g) The applicant, client, or reporter, if a request is made, shall have the right to receive a written disposition from the Division as soon as practical but not later than 10 calendar days from the date upon which a finding of substantiated, established, not established, or unfounded is made or upon which a decision to provide or not to provide child welfare services is made.

(h) Each applicant or client shall be informed of:

1. The Division's responsibilities, as listed in N.J.A.C. 3A:11-1.6;

2. Eligibility factors used by the Division;

3. The Division's legal responsibility to investigate certain abuse or neglect reports or referrals;

4. Other resources in the community or courses of action, which might meet his or her needs;

5. Why the Division is involved with him or her and the family, if the person did not ask for help;

6. What the Division expects from him or her and the child; and

7. What services can be provided.

(i) The applicant or client shall have the right to accept or refuse any involvement or services offered by the Division, unless a court order requires the Division to provide them, and the court order requires the applicant or client to utilize the service.

§ 3A:11-1.5 Responsibilities of applicants and clients

(a) A person applying for or receiving services shall provide information necessary to determine his or her eligibility for services, including requested financial information.

(b) A person applying for or receiving services shall report within seven days to the Division representative any changes in the number or relationship of family members, changes in address or residence, changes in financial circumstances, changes in employment or any other change in circumstances which may affect eligibility for services.

§ 3A:11-1.6 Responsibilities of the Division

(a) The Division, through a Division representative, is responsible for:

1. Helping ensure that the family's children are safe and protected from abuse or neglect;

2. Explaining why the Division is involved with a family;

3. Telling the applicant what is expected from him or her and his or her children;

4. Explaining to the family the procedures to obtain the services requested;

5. Providing only those services agreed upon unless there is a court order or as otherwise authorized in N.J.S.A. 30:4C-12 and 15 and 9:6-8.18 and 29;

6. Listening and offering to help find solutions to problems;

7. Discussing progress on a regular basis;

8. Informing the client of changes in services that may affect the family;

9. Explaining when and under what circumstances the Division will terminate its involvement with the family;

10. Explaining that, for child protection investigations, collateral contacts will be made and for what purpose within the limitations of N.J.S.A. 9:6-8.10a;

11. Explaining the purpose of collateral contacts in child welfare services and that collateral contacts shall be made with the client's consent; and

12. Explaining that, depending upon the service received and the client's financial circumstances, the client may have a responsibility to reimburse the Division or pay directly for the service.

(b) The Division may provide services through direct service delivery or through third-party social service contracts with other service providers. The Division may also refer applicants and clients to service providers.

(c) Within 30 days of a child's out-of-home placement, the Division shall notify each adult relative of the child:

1. That the child's parent no longer has custody;

2. That the Division shall complete an assessment of each interested adult relative's ability to provide care and support of the child;

3. Of the requirements to become a licensed resource family parent in accordance with N.J.A.C. 3A:51 and of the additional services and supports available to a child in out-of-home placement in accordance with N.J.A.C. 3A:15; and

4. Of the requirements to participate in the CP&P Legal Guardianship Subsidy Program in accordance with N.J.A.C. 3A:20.

§ 3A:11-1.7 Service limitations

(a) The Division shall provide needed services within the limits of legislative appropriations to all eligible children and families in similar circumstances. The provision of services shall also be subject to limitations due to actual ability of the Division to provide such services directly or by purchasing such services from appropriate privately sponsored agencies or institutions.

(b) The demand for social services frequently exceeds the funds available to provide them. Therefore, in accordance with N.J.S.A. 30:4C-13, the Director may establish Division-wide service limitations based upon the need to focus finite resources to serve those individuals most in need. Service limitations shall be published within 90 days of imposition in the Public Notices section of the New Jersey Register.

§ 3A:11-1.8 (Reserved)

Title 3A, Chapter 12 -- Case Management

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 9:3A-7f, 9:6-8.15, and 30:4C-4(h) and 25.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2017 d.054, effective March 2, 2017.

See: 48 N.J.R. 2186(a), 49 N.J.R. 639(a).

Chapter 12, Case Management, was readopted as R.2017 d.054, effective March 2, 2017.

§ 3A:12-1.1 Purpose

The purpose of this subchapter is to describe the process of developing a case plan, to identify the participants in the development of the case plan, and to identify the contents of the case plan.

§ 3A:12-1.2 Scope

The provisions of this subchapter shall apply to each client, family member, out-of-home placement provider, Division representative, and other person participating in the case plan development.

§ 3A:12-1.3 Definitions

The definitions in N.J.A.C. 3A:11-1.3, Definitions, are hereby incorporated into this subchapter by reference.

§ 3A:12-1.4 When a case plan is developed

(a) A case plan shall be developed with each family for whom services will be provided. The Division representative shall prepare the case plan:

1. Within 60 calendar days of receipt of a report, as defined at N.J.A.C. 3A:10-1.3, or a child welfare services referral or application; or

2. Within 30 calendar days of a child entering or reentering out-of-home placement.

(b) The Division representative shall also prepare the case plan at least once every six months after the previous case plan.

(c) The case plan shall be revised more often than the standard set forth in (a) and (b) above, if the case situation shows significant change.

§ 3A:12-1.5 Participants in developing the case plan

(a) The Division representative shall develop the case plan with the child's parent, unless he or she is unwilling to participate, any person identified by the parent to participate, any person appointed by the court for this purpose and the child, if the Division representative determines that the child is willing and able to participate in the development of the case plan, in accordance with this subchapter. Other interested parties or service providers may be invited to participate.

(b) In addition to (a) above, when the child lives in an out-of-home placement, the Division representative shall develop the case plan with the participation of each child's out-of-home placement provider.

§ 3A:12-1.6 Process of developing the case plan

(a) Participation in developing the case plan shall include providing information, identifying needs, outcomes, supports, services and tasks, which are needed to meet the needs and achieve the case goal, suggesting the time frames for beginning and completing the identified services and tasks and specifying who is responsible for completing the identified services and tasks.

(b) If the participants in the case plan development process are unable to participate in a family team meeting, they may participate by:

1. Meeting individually with the Division representative;

2. Providing written information to the Division representative; or

3. Talking with the Division representative by telephone.

(c) The Division representative shall prepare a written case plan.

§ 3A:12-1.7 Contents of the written case plan

(a) The written case plan for a family with the child living at home shall include:

1. The reasons for the Division's current involvement and significant events with the family;

2. The family's perspective and understanding of their involvement with the Division, and the family's personal history;

3. The Division's history with the family, including allegations, dates, concerns, findings, and length of time;

4. The schedule for contacts between the Division representative and the family members, pursuant to N.J.A.C. 3A:12-2, In-Person Visits with Clients and Out-of-Home Placement Providers;

5. The supports and services offered to, provided to and used by the family since the last case plan was developed, for each case plan after the initial case plan. If any service is court-ordered, the case plan shall contain that service;

6. The behavioral and other changes expected from each person;

7. The services or activities that are intended to facilitate the changes and who will accomplish or provide them; and

8. Progress toward achieving the case goal for each family member receiving services.

(b) The written case plan for a child in an out-of-home placement shall include:

1. The legal authority for the out-of-home placement;

2. The efforts made to prevent placement, the reasons for making the placement or for continuing the placement, all efforts made to reunify the family and the impact of those efforts;

3. The case goal for each child, the progress towards its achievement and any obstacles to reaching it;

4. An assessment of the safety and appropriateness of the current placement and the plan to assure that each child receives safe and appropriate care;

5. The efforts made to find a missing mother and father or relative, pursuant to N.J.S.A. 30:4C-12 et seq.;

6. The schedule for contacts between the Division representative and the family members, pursuant to N.J.A.C. 3A:12-2, In-Person Visits with Clients and Out-of-Home Placement Providers;

7. The plan for visits between the child and parents, siblings and other relatives (see N.J.A.C. 3A:15-1);

8. The views of the child, family, and out-of-home placement provider concerning the placement and the case plan;

9. The needs of the child, the parent, and the child's out-of-home placement provider in order to meet the case goal;

10. The behavioral and other changes expected from each person;

11. The services or actions intended to meet the identified needs and who is responsible to provide the services and complete the activities, with projected time frames, as well as the appropriateness of the services for the child. See N.J.A.C. 3A:15-2, Services to Children in Out-of-Home Placement;

12. Any stipulations reflected in a court order;

13. A description of the type of out-of-home placement;

14. How the placement is safe, near the parent's home, and the least restrictive and most family-like setting available, consistent with the best interest and special needs of the child;

15. Why the child was placed a substantial distance from his or her parents or out-of-State, when applicable;

16. The child's health and education records, in accordance with N.J.A.C. 3A:15-2.5(b) and (c) and 2.6(b) and (d); and

17. Programs and services to help the child transition from out-of-home placement to self-sufficiency skills, for a child age 14 or older, in accordance with N.J.A.C. 3A:15-2.7.

(c) The written case plan for a child in an out-of-home placement and whose case goal is either adoption or kinship legal guardianship shall include the steps the Division representative is taking to place the child with:

1. An adoptive family, including child specific recruitment efforts, such as the use of adoption resource exchanges in accordance with N.J.A.C. 3A:22-2.4 and 2.5, and to finalize the adoption; or

2. A relative or caregiver who is willing to assume care of a child, become a kinship legal guardian and finalize the kinship legal guardianship, after steps are taken to determine that reunification and adoption are neither feasible nor appropriate and the child meets the eligibility requirements for kinship legal guardianship.

(d) The case plan for a child in out-of-home placement shall include documentation of:

1. The appropriateness of the child's current educational setting; and

2. A child's inability to attend school on a full-time basis due to the child's medical condition.

(e) When the Division is not required to file a petition seeking termination of parental rights pursuant to N.J.S.A. 30:4C-15.3b, the Division representative shall document in the case plan a compelling reason for determining that filing the petition is not in the best interests of the child.

§ 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:12-2.1 Authority

N.J.S.A. 30:4C-25 requires the Division of Child Protection and Permanency, Department of Children and Families to regularly visit all children under its care, custody, and supervision.

§ 3A:12-2.2 Purpose

The purpose of this subchapter is to establish criteria for determining the frequency and nature of in-person visits by a Division representative with each child, parent, and out-of-home placement provider.

§ 3A:12-2.3 Scope

The provisions of this subchapter shall apply to each child receiving services from the Division, his or her parent(s), each out-of-home placement provider of a Division-supervised child, and the Division.

§ 3A:12-2.4 Definitions

The definitions in N.J.A.C. 3A:11-1.3, Definitions, are hereby incorporated into this subchapter by reference.

§ 3A:12-2.5 Purpose of in-person visits by the Division representative

(a) Each in-person visit by the Division representative shall be made for one or more of the following purposes:

1. To determine whether the child is receiving appropriate care and is safe from harm;
2. To determine whether the objectives of the case plan are being met;
3. To determine what progress is being made toward achieving the case goal; or
4. To determine whether barriers to achieving the case goal are being alleviated.

(b) Each in-person visit by a Division representative with a child in out-of-home placement shall be made to determine the child's adjustment to and progress in the out-of-home placement and to obtain information and concerns about the child from the out-of-home placement provider and the child, in addition to the purposes in (a) above.

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

(a) The Division representative and supervisor shall establish a schedule for each child, his or her parent and out-of-home placement provider based on the following:

1. The services to be provided by the Division and the tasks to be accomplished directly by the Division representative;

2. The services to be provided by non-Division service providers;

3. The case goal; and

4. The assessed risk to the child.

(b) The supervisor and the Division representative shall manage the schedule when appropriate.

(c) Each established schedule for in-person visits 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) 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, 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. 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. 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 visit within five working days 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) 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 speak with the child by telephone within five working days of the child's placement in a treatment-based out-of-home placement program, unless contraindicated by the individual treatment plan for the child.

(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 an in-person visit 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 in-person visit.

§ 3A:12-2.11 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.

Title 3A, Chapter 12, Subchapters 3 through 4 (Reserved)

Title 3A, Chapter 13 -- General Placement Provisions

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 9:3A-7f and g; 30:4C-4(c), (f), and (h); 30:4C-50 et seq.; and 30:4C-101 et seq.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

Effective Dates:

March 14, 2019, Readoption;

April 15, 2019, Technical Changes.

New Expiration Date:

March 14, 2026

See: 51 N.J.R. 499(a)

Chapter 13, General Placement Provisions, was recodified from N.J.A.C. 10:133H, General Placement Provisions, by administrative change, effective January 3, 2017. As part of the recodification, attendant technical changes were made to the rule text concerning cross-references, agency names, addresses, etc. See: 49 N.J.R. 98(a).

Title 3A, Chapter 13, Subchapter 1. (Reserved)

Title 3A, Chapter 13, Subchapter 2. (Reserved)

Title 3A, Chapter 13, Subchapter 3. (Reserved)

§ 3A:13-3.1 Scope

The provisions of this subchapter shall apply to the Division and to each child in out-of-home placement or cared for by a relative in accordance with N.J.A.C. 3A:13-3.10, each parent, any legal counsel for the child, the parent or the Division, and each out-of-home placement provider or relative providing care for a child in accordance with N.J.A.C. 3A:13-3.10. The provisions of this subchapter shall not apply to those situations cited in N.J.A.C. 3A:13-3.11.

§ 3A:13-3.2 Definitions

The definitions in N.J.A.C. 3A:11-1.3 are hereby incorporated in this subchapter by reference.

§ 3A:13-3.3 Purpose of a placement review

a) The purpose of a placement review shall be to determine:
   1. The safety of the child;
   2. Whether the out-of-home placement or care provided by a relative should continue, consistent with the provisions of N.J.A.C. 3A:13-3.4;
   3. If reasonable efforts to reunify are not required when a court has made a determination pursuant to N.J.S.A. 30:4C-11.3;

   4. The extent of compliance with the case plan and the extent of progress made toward alleviating or mitigating the causes which necessitate placement;
   5. Whether the placement plan required by N.J.S.A. 30:4C-55 is appropriate or should be revised, including specifically:
      i. Whether the case goal is still appropriate or should be modified;
      ii. Whether the intermediate objectives relating to the case goal are appropriate or should be modified;
      iii. Whether the statement of the duties and responsibilities of the Division, the parent, the out-of-home placement provider or relative providing care for the child, and the child, if age appropriate, including the services to be provided by the Division to the child, the parent, and the out-of-home placement provider or relative providing care for the child, should be modified;
      iv. Whether the Division has made reasonable efforts to return the child home, including the provision of visitation in accordance with the applicable law unless (a)3 above applies;
      v. Whether the Division has made reasonable efforts to locate family members who may be willing and able to care for the child; and
      vi. Whether the continued out-of-home placement or care provided by a relative of the child is appropriate and in the best interest of the child;
   6. A likely date by which the child can safely be returned home or, if the child cannot be returned home, placed for adoption or legal guardianship or in another permanent living arrangement; and
   7. Whether to prepare for a permanency hearing, pursuant to 42 U.S.C. § 675(5)(C).

§ 3A:13-3.4 Determination of whether out-of-home placement or care provided by a relative should continue

(a) In deciding whether the out-of-home placement or care provided by a relative should continue, the Division shall consider and determine the following:

1. The safety of the child;
2. Whether the circumstances and reasons originally necessitating the out-of-home placement or care provided by a relative of the child continue to exist or if additional or different circumstances have occurred which support continued out-of-home placement or care provided by a relative;
3. Whether the Division in the provision of services has made reasonable efforts to return the child home and the failure to achieve that return home is not due to a lack of appropriate Division services or actions, as specified in the case plan, see N.J.A.C. 3A:12-1;
4. Whether the Division has provided ample opportunity for visitation between the child and parent, siblings and relatives, so as to maintain the parent-child and family relationships;
5. Whether continued out-of-home placement or care provided by a relative serves the best interest of the child;
6. Whether a less or more restrictive out-of-home placement would better meet the child's needs;
7. Whether an out-of-home placement or care provided by a relative in closer proximity to the child's family is available and if it would better serve the child's needs; and
8. Whether the child should be placed with any of his or her siblings and what efforts have been made to place the siblings together.

§ 3A:13-3.5 Frequency of placement reviews

(a) At least once every six months, the Division shall:

1. Conduct a placement review in accordance with N.J.A.C. 3A:13-3.7;
2. Participate in a review by the Child Placement Review Board pursuant to N.J.S.A. 30:4C-50 et seq. and N.J.A.C. 3A:13-3.8; or
3. Participate in another professional case review in accordance with (b) below.

(b) Another professional case review, including, but not limited to, a Case Assessment Resource Team review, a meeting to develop or revise a child's treatment plan in accordance with N.J.A.C. 3A:55-6.1 or 3A:56-6.1, or a court hearing, may substitute for the placement review only when:

1. The review is held during the required time frame in accordance with (a) above;
2. The same people receive prior written notice of the review in accordance with N.J.A.C. 3A:13-3.6(a); and
3. The purpose of the review is the same as that of a placement review conducted in accordance with N.J.A.C. 3A:13-3.3.

§ 3A:13-3.6 Notice of Division placement review

(a) The Division shall provide adequate prior written notice of the date, time and location of the placement review to each of the following, if applicable:
   1. The parent;
   2. The out-of-home placement provider or relative providing care for the child;
   3. The child, if age appropriate;
   4. Legal counsel for the child, the parent and the Division;
   5. The Child Placement Review Board; and
   6. The Case Assessment Resource Team Coordinator.

(b) In addition to those persons cited in (a) above, the Division may provide prior written notice of the date, time and location of the placement review to another person(s) or professional(s) providing care or services to the child or parent beyond those services provided by the Division.

(c) The out-of-home placement provider or relative providing care for the child shall have the opportunity to be heard at the placement review. Each other person invited to the placement review shall be entitled to attend and participate in the placement review to the extent deemed appropriate by the Division and in concert with the consent of the parent.

(d) In the absence of personal attendance, each invited person may submit information in writing to the Division concerning the case goal and case plan for the child.

§ 3A:13-3.7 Convening and conducting the Division placement review

(a) The Division placement review shall be convened and conducted by a Division representative, as defined in N.J.A.C. 3A:11-1.3, who has no responsibility for case management or delivery of service to the child who is the subject of the placement review or to the child's parent.
(b) Division representatives who participate in the Division placement review shall include the designated Division representative who conducts the placement review, the Division representative having direct service responsibility for the child, and that Division representative's supervisor. The Division representative for the parent of the child being reviewed and for each of the child's siblings shall also be present at the placement review or submit information about the parent's or sibling's situation or circumstances to the Division representative conducting the placement review.
(c)The Division representative conducting the placement review shall ensure that the following are assessed or determined at the placement review:

1. The safety of the child;
2. The circumstances that necessitated the out-of-home placement or care provided by a relative and the efforts made by the Division to prevent out-of-home placement or care provided by a relative unless the circumstances in N.J.A.C. 3A:13-3.3(a)3 apply;
3. The continuing need for out-of-home placement or care provided by a relative;
4. The appropriateness of the out-of-home placement or care provided by a relative;
5. The proximity of the child's out-of-home placement or care provided by a relative to his or her own home and the efforts made by the Division to provide continued contact between the child, parent, siblings not residing with the child and each relative identified in the case plan, as one with whom the child shall visit;
6. Whether the child is making an adequate adjustment to the out-of-home placement or care provided by a relative, as indicated by the child's behavior;
7. Whether returning the child to his or her own home is contrary to the child's welfare;
8. The current objectives of the case plan, the extent of compliance with the case plan, and whether the objectives are being implemented and are likely to lead to achieving the case goal;
9. Whether the child's case goal is the most likely to meet his or her needs and whether progress is being made toward its achievement;
10. Whether the services the Division is providing to the child, his or her parent, and the out-of-home placement provider or relative providing care for the child meet the identified service needs and whether there are obstacles to meeting the identified service needs;

11. Whether the Division, parent and out-of-home placement provider or relative providing care for the child are fulfilling their respective responsibilities in accordance with the case plan;
12. Whether the child is fulfilling any responsibilities in accordance with the case plan;
13. The extent of progress made toward alleviating or mitigating the causes of out-of-home placement or care provided by a relative unless the circumstances in N.J.A.C. 3A:13-3.3(a)3 apply;
14. Whether the parent and the Division are maintaining the visitation schedule;
15. Whether obstacles exist that are preventing achievement of the case goal and the efforts being made by the Division to alleviate the obstacles;
16. Whether the services needed to assist the child, age 16 or over, to make the transition from living in an out-of-home placement or care provided by a relative to living independently are being provided;
17. Whether progress is being made to identify, search for, and assess relatives of the child in order to determine their appropriateness and willingness to care for the child;
18. Whether the child has siblings in out-of-home placement or care provided by a relative, what the case plan and case goal are for each of them, whether the case plan includes placing any of the siblings together, and what efforts the Division is making to place the siblings together until they can be reunited with their parent;
19. Whether recommendations by the Child Placement Review Board or court orders are being followed;
20. The time frame and conditions required for return of the child to his or her own home or an alternate permanent living arrangement;
21. Whether the Division shall initiate a petition to terminate parental rights or shall determine that one of the exceptions listed in N.J.S.A. 30:4C-15.3 exists; and
22. Whether to identify an adoptive parent and conduct a home study as necessary.

(d) The Division shall inform the parent, in accordance with N.J.A.C. 3A:12-1.8(b), the child, if appropriate, and the Child Placement Review Board of the outcome of the Division's placement review, except that those persons cited in N.J.A.C. 3A:13-3.6(a)2 and 6 and (b) may receive only that information from the placement review which has a direct effect on the care or services being provided by that person or professional. The Division shall inform legal counsel for the child, the parent or the Division of the outcome of the placement review upon the request of each legal counsel.

(e) The Division representative who conducts the placement review shall share the outcomes of the placement review and other critical case information learned at the placement review with each Division representative who has a responsibility to have the information, following the placement review.

§ 3A:13-3.8 Division responsibility to the Child Placement Review Board

(a) Pursuant to N.J.S.A. 30:4C-50 et seq., the Division shall provide the following information in its notice of out-of-home placement or care provided by a relative to the Family Court within five calendar days of a child's out-of-home placement or care provided by a relative:

1. The reasons for the out-of-home placement or care provided by a relative;

2. The Division's efforts to prevent out-of-home placement or care provided by a relative;

3. The short-term placement plan;

4. The case goal; and

5. The names and addresses of all parties, Division and non-Division, who have direct responsibility for or interest in the child.

(b) The Division shall submit to the Child Placement Review Board complete and relevant case information for each review at least two weeks before the Board's review.

(c) The Division shall submit to the Child Placement Review Board complete and relevant case information as contained in the case plan within two weeks after each placement review.

§ 3A:13-3.9 Review of adoption placement

When a child is legally available for adoption and in a selected adoption home or the consent to foster parent adoption is signed by the office manager, the Division shall continue to conduct a placement review no less frequently than once every six months, until the final judgment of adoption is entered by the Family Court. Since the Child Placement Review Board shall suspend its review, the Division shall submit to the Child Placement Review Board a status report pursuant to N.J.S.A. 30:4C-58.1 once every four months stating the progress being made toward adoption finalization.

§ 3A:13-3.10 Living arrangements subject to a placement review

(a) Each child in the following living arrangements or circumstances is subject to a placement review. The Division shall notice the Family Court, under N.J.S.A. 30:4C-53, of these situations:

1. A child who has been placed voluntarily or non-voluntarily by the Division from his or her home, free or with maintenance provided by the Division; and

2. A child who has not been placed by the Division from his or her home but for whom the Division provides maintenance or provides permanency services.

§ 3A:13-3.11 Living arrangements not subject to a placement review or review by the Child Placement Review Board

(a) Each child in the following living arrangements or circumstances is not subject to a placement review or review by the Child Placement Review Board. The Division shall not conduct a placement review or notice the Family Court as under N.J.S.A. 30:4C-53 of these situations:

1. A child who is residing with a relative or stepparent at the time of application or referral for services, whose parent made the arrangement, and for whom the Division does not provide maintenance or permanency services;
2. A child who has been ordered by the Family Court to be placed in a correctional facility, where the Division is not the child's legal guardian; and
3. A child who is placed in New Jersey by an out-of-State agency and that agency retains legal and financial responsibility for the child, with the Division providing courtesy supervision of the out-of-home placement or care provided by a relative. The Division provides a different type of review for a child in these circumstances in accordance with N.J.A.C. 3A:13-4.

§ 3A:13-3.12 Termination of providing information to Child Placement Review Board

(a) The Division shall notice the Family Court of the following circumstances and cease to provide information to the Child Placement Review Board unless otherwise ordered by the Family Court:

1. When a child returns to his or her own home;
2. When a child attains the age of 18; or
3. When the Division transfers the responsibility of a child's care to another agency or otherwise terminates its services.

(b) The Division may continue to hold a placement review at the discretion of the office manager in the above-cited situations if the Division continues services or monitoring of the case.

(c) The Division shall provide notice but no further information to the Child Placement Review Board when:

1. The child is adopted and the final judgment of adoption is entered by the Family Court;
2. The child enters the armed forces;
3. The child marries; or
4. The child dies.

§ 3A:13-3.13 (Reserved)

§ 3A:13-4.1 Purpose

The purpose of the subchapter is to ensure that each child placed in New Jersey by another state and for whom New Jersey provides courtesy supervision pursuant to N.J.S.A. 9:23-5 et seq., the Interstate Compact on the Placement of Children, has a regular review of his or her situation by a Division representative who has no responsibility for supervision of the child or delivery of service to the child.

§ 3A:13-4.2 Scope

(a) The provisions of this subchapter shall apply to:

1. Each Division representative;

2. Each child placed in New Jersey by the responsible sending state with a foster parent, with an adoptive parent adopting the child through an out-of-State public agency, or with a parent or relative, when New Jersey provides courtesy supervision pursuant to N.J.S.A. 9:23-5 et seq.; and

3. Each foster parent, adoptive parent adopting a child through an out-of-State public agency, and parent or relative caring for a child placed in New Jersey by the responsible sending state when New Jersey provides courtesy supervision pursuant to N.J.S.A. 9:23-5 et seq.

§ 3A:13-4.3 Definitions

The definitions in N.J.A.C. 3A:11-1.3 are hereby incorporated in this subchapter by reference.

§ 3A:13-4.4 Purpose of review

(a) The purpose of a Division review of a child placed in New Jersey by the responsible sending state is to:

1. Assure the child's safety;
2. Assure the child's permanency as determined by the responsible sending state;
3. Assess the services used by the child or provided on the child's behalf;
4. Assess compliance with the child's case plan as developed by the responsible sending state's staff; and
5. Compile information needed by the responsible sending state's staff to assess and amend the child's case plan.

§ 3A:13-4.5 Notice of review

(a) A Division representative shall provide adequate prior written notice of the review to:

1. The child, if age appropriate;

2. The foster parent, adoptive parent adopting the child through a public agency, or parent or relative caring for a child placed in New Jersey by the responsible sending state when New Jersey provides courtesy supervision pursuant to N.J.S.A. 9:23-5 et seq.;

3. The child's case manager in the responsible sending state; and

4. The Child Protection and Permanency Interstate Services Unit.

§ 3A:13-4.6 Participation in the review

(a) A Division representative who has no responsibility for supervision of the child or delivery of services to the child or the foster parent, adoptive parent, parent or relative with whom the child is living in New Jersey shall schedule, conduct and make a written record of the results of the review.

(b) The Division representative who provides courtesy supervision of the child living in New Jersey and that Division representative's supervisor shall participate.

(c) Any other Division representative having relevant information to share may participate or submit written information prior to the review.

(d) The child's case manager in the responsible sending state may participate in the review by attending the review, submitting written information, or speaking with a Division representative by telephone either before or during the review.

§ 3A:13-4.7 Conducting the review

(a) The Division representative conducting the review shall ensure that the following are assessed:

1. The child's safety in his or her current living arrangement;
2. The child's progress toward achieving the permanent plan as determined by the responsible sending state;
3. The use and effectiveness of any services the child or the foster parent, adoptive parent, parent or relative with whom the child lives in New Jersey receives as part of the responsible sending state's case plan;
4. Any other service identified by the Division which the Division may recommend to the responsible sending state; and
5. Compliance with the responsible sending state's case plan.

§ 3A:13-4.8 Frequency of review

A Division representative shall conduct a review of a child placed in New Jersey by another state and for whom New Jersey provides courtesy supervision at least once every six months as long as the child remains in New Jersey pursuant to N.J.S.A. 9:23-5 et seq.

§ 3A:13-5.1 Purpose

The purpose of the subchapter is to establish criteria for eligibility and a standard procedure for providing State paid post-secondary tuition for students between the ages of 16 to 23 years, who meet the eligibility requirements specified in N.J.A.C. 3A:13-5.4 and in accord with P.L. 2003, c.132.

§ 3A:13-5.2 Scope

The provisions of this subchapter apply only to those persons who meet the eligibility requirements listed in N.J.A.C. 3A:13-5.4, and to the Tuition Waiver Program as described in N.J.S.A. 30:4C-101 et seq. This subchapter does not apply to other scholarships or grants which are provided by the Department or any of the Divisions within the Department.

§ 3A:13-5.3 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context already indicates otherwise.

“Program” means the Tuition Program as described in N.J.S.A. 30:4C-101 et seq. and as set out in this subchapter.

§ 3A:13-5.4 Eligibility requirements

(a) A Tuition Program applicant will be determined eligible for the Program upon meeting the following criteria:

1. At the time of the initial application, the tuition applicant shall be 16 to 23 years of age; and

2. The Tuition Program applicant shall:

i. Have been in the care and custody of the Division of Child Protection and Permanency for a period of nine cumulative months or more following the Tuition Program applicant's 16th birthday;

ii. Be or have been residing in an independent living arrangement, or a transitional living program established pursuant to P.L. 1999, c.224 (N.J.S.A. 9:12A-2 et seq.), operated or approved for payment by the Division; or

iii. Be or have been residing in a transitional living program located in the State of New Jersey and approved for payment by the Federal government pursuant to the Federal "Runaway and Homeless Youth Act," Title III of Pub. L. 93-415 (42 U.S.C. §§5701 et seq.).

3. The Tuition Program applicant shall have received a high school diploma or a certificate of high school equivalency; and

4. The Tuition Program applicant shall have been granted full-time admission to a New Jersey public institution of higher education or county vocational school.

(b) The Program is limited to five years from the application date.

(c) The Program is limited to students admitted and enrolled in a full-time degree, diploma or certificate program or course of undergraduate study.

(d) The Tuition Program participant shall maintain satisfactory academic progress.

§ 3A:13-5.5 Initial application process

(a) Each Tuition Program applicant shall submit to the U.S. Department of Education a completed Free Application for Federal Student Aid, which can be obtained at www.fafsa.ed.gov, a local library, any college, university or county vocational school.

(b) Each Tuition Program applicant shall obtain a Tuition Program Application from the website at https://www.embrella.org/njf-scholars-program/.

(c) Application procedures are as follows:

1. In order to apply for Tuition Program eligibility, the student must complete a Tuition Program Application, the requirements of which are described in N.J.A.C. 3A:13-5.4, and submit it to the Department.
2. The applicant shall also provide the following:
   i. Acceptable proof of high school diploma or certificate of high school equivalency. Such proof may be a photocopy of the diploma or certification, a notarized letter from the institution which issued the diploma or certification attesting to the Tuition Program applicant's receipt of such diploma or certification or other reliable documentation;
   ii. Two letters of support from an adult involved in the Tuition Program applicant's life who can attest to his or her suitability for the Program. Such letter may be from a foster parent, teacher, mentor, community service provider, clergy, CP&P caseworker, or other similar adult; and
   iii. An essay written by the Tuition Program applicant on the subject: "How the Tuition Program Will Help Achieve My Personal Educational Goals."

(d) The date of the application shall be the date the Department receives the application.

(e) Deadline dates for the Tuition Program Application shall be established annually by the Department to comply with the State's fiscal year, Federal grant timelines and to allow for academic term expenditure control, and can be obtained from:

Department of Children and Families
Tuition Program
P.O. Box 717
Trenton, New Jersey 08625-0717

§ 3A:13-5.6 Initial application determination

Upon receipt of the application package, the Department shall review the application package to determine if the Tuition Program applicant meets the program criteria, as listed in N.J.A.C. 3A:13-5.4, and has fully completed the application process and procedures as described in N.J.A.C. 3A:13-5.5

§ 3A:13-5.7 Student notification

Tuition applicants shall be notified of eligibility by the Department's Tuition Program.

§ 3A:13-5.8 Public institution notification and award and recipient notification

The New Jersey public institution or county vocational school, to which a program applicant has been admitted, shall notify the Department of the amount of the tuition and the Department shall notify the appropriate institution and the recipient regarding an applicant's approval for funds through the Tuition Program.

§ 3A:13-5.9 Verification of enrollment and academic performance

(a) Before payment may be made by the Department on behalf of an eligible student, the Department shall determine that the student is eligible. The institution shall certify that the student has registered as a full-time student for an academic term.

(b) Students on whose behalf funds are being paid from the Tuition Program shall maintain satisfactory academic progress as defined by the institution that they are attending.

(c) The academic standing and progress of all students on whose behalf Tuition Program funds are being paid must be monitored by the institutions at least once a year, prior to the fall semester.

(d) Students who fail to achieve the standards set forth in this section shall be ineligible to participate in the Tuition Program until such time as the institution certifies that they are in good academic standing and are achieving satisfactory academic progress. The student is responsible for asking the institution to notify the Department when he or she returns to good academic standing.

§ 3A:13-5.10 Payment

The Department shall provide payment directly to the institutions on behalf of the Tuition Program applicant. Listings of eligible students shall be provided to each institution.

§ 3A:13-5.11 Award combinations and overawards

Tuition Program funds provided on behalf of students may consist of various combinations of awards. If the sum of the tuition waiver plus other Federal, State and institutional student financial assistance, except loans, exceeds the total cost of the student's tuition, the tuition waiver shall be reduced by the amount exceeding that cost.

§ 3A:13-5.12 Award adjustments, refunds and collections

(a) If a refund is due a student under the institution's refund policy and the student received a grant from the Tuition Program, the institution shall multiply the institutional refund by the following fraction to determine the amount to be refunded to the Department: amount of Tuition Program award for the payment period divided by the total amount of financial aid (minus Federal Work-Study earnings and loans) awarded for the period.

(b) "Payment period" as used in (a) above means the time between the first day of classes for an academic term and the end of that term according to the institutional calendar.

(c) The formula in (a) above shall be applied if a student reduces his or her academic course load to less than full-time prior to the end of the institutional refund period. However, if the student reduces his or her academic course load to less than full-time after the end of the institutional refund period, a refund to the Tuition Program is not required.

§ 3A:13-5.13 Student's obligation to report changes in institution

Any changes in institution choice which occur after student notification, as described in N.J.A.C. 3A:13-5.7, shall be reported immediately, in writing by the student, to the Department in order that the student’s continued eligibility may be calculated and prompt payment provided.

§ 3A:13-5.14 Tuition Program renewal process

In order to continue to have Tuition Program funds provided on their behalf, students must continue to be enrolled full time in an undergraduate degree program and remain in good academic standing at their institution. A non-profit agency, under contract with the Department for this purpose, shall obtain the information from the institution necessary for a student to continue to receive funds through the Tuition Program.

§ 3A:13-5.15 Appeals

Any person included in the scope of the series of chapters, as described at N.J.A.C. 3A:11-1.2, shall refer to N.J.A.C.3A:5, Dispute Resolution, to determine any opportunity available to resolve a dispute with the Department.

Title 3A, Chapter 14 -- Resource Care

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 9:3A-7.f, 30:4C-4(h), and 30:4C-26.a.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2016 d.062, effective May 16, 2016.

See: 48 N.J.R. 22(a), 48 N.J.R. 1301(b).

Chapter 14, Resource Care, was recodified from N.J.A.C. 10:122B, Resource Care, by administrative change, effective January 3, 2017. As part of the recodification, attendant technical changes were made to the rule text concerning cross-references, agency names, addresses, etc. See: 49 N.J.R. 98(a).

§ 3A:14-1.1 Purpose

(a) The purpose of this chapter is to state:

1. The definitions of certain words and terms used in this chapter and N.J.A.C. 3A:51 , 3A:15, and 3A:17;

2. The Division's non-discrimination policy regarding resource parent applicants, resource parents, and children in placement;

3. When and how services to children in placement may be limited;

4. The circumstances under which a Department employee, household member, or relative can become a resource parent;

5. The Division's responsibilities for completing the home study process;

6. The Division's and contract agencies' responsibilities to the resource parent;

7. When a resource parent applicant can be reimbursed for a physical examination and other expenses incurred related to becoming a licensed resource parent;

8. How the Division approves and pays for child care when the resource parent is working; and

9. The Division's pre-service training program.

(b) The purpose of this chapter, N.J.A.C. 3A:51 , 3A:15, and 3A:17 does not:

1. Create an employer/employee relationship between the Division and a licensed resource parent; or

2. Create any right to be a resource parent, apart from that which may exist under statute or case law.

§ 3A:14-1.2 Scope

(a) The provisions of this chapter and N.J.A.C. 3A:15 and 3A:17 shall apply to each person licensed by the Division to provide resource care services for a child under the Division's supervision and to each household member; to each person making application to be a resource parent and to each household member; and to each Division representative or contract agency employee responsible for studying, reevaluating or licensing resource parents and their families or providing services to children in resource care.

(b) N.J.A.C. 3A:14-5 applies to Division representatives and resource parents licensed by the Office of Licensing and supervised directly by the Division, and not to a contract agency's employees and resource parents.

(c) The regulatory framework of this series of chapters on resource care and out-of-home placement services includes this chapter and N.J.A.C. 3A:51, Manual of Requirements for Resource Family Parents, N.J.A.C. 3A:15, Services for Children in Out-of-Home Placement, and N.J.A.C. 3A:17, Removal of Children in Placement from Resource Family Homes. The rules contained in this chapter, N.J.A.C. 3A:15 and 3A:17 are to be used in conjunction with the rules in N.J.A.C. 3A:51 when applied to resource homes under the supervision of the Division.

§ 3A:14-1.3 Definitions

(a) The definitions in N.J.A.C. 3A:51-1.3 are hereby incorporated into this chapter by reference.

(b) The following words and terms used in this chapter and in N.J.A.C. 3A:51 , 3A:15, and 3A:17 shall have the following meanings, unless the context clearly indicates otherwise:

"Adult" means a person 18 years of age or older.

"Child" means a person under 18 years of age except as otherwise provided by N.J.S.A. 9:17B-2f.

"Division Director" means the Director of the Division of Child Protection and Permanency.

"Division representative" means a professional employee of the Division of Child Protection and Permanency.

"Goal" means the result toward which effort is directed.

"Office manager" means a Division employee charged with the direction of a field office of the Division.

§ 3A:14-1.4 Service limitations

(a) The Division shall provide needed services within the limits of legislative appropriations to all eligible children in placement and their families in similar circumstances. The provision of services shall also be subject to limitations due to actual ability of the Division to provide such services directly or by purchasing such services from appropriate privately sponsored agencies or institutions.

(b) The demand for social services frequently exceeds the funds available to provide them. Therefore, in accordance with N.J.S.A. 30:4C-13, the Division Director may establish Division-wide service limitations based upon the need to focus finite resources to serve those individuals most in need. Service limitations shall be published within 90 days of imposition in the Public Notices section of the New Jersey Register.

§ 3A:14-1.5 Nondiscrimination

(a) Pursuant to 42 U.S.C. § 671(a)(18), neither the Division nor a contract agency providing resource care services shall deny to any individual the opportunity to become a resource parent on the basis of the race, color, or national origin of the individual or of the child involved; or delay or deny the placement of a child into resource care on the basis of the race, color, or national origin of the resource parent or child involved.

(b) Neither the Division nor any contract agency providing resource care services shall discriminate with regards to the licensing of a resource parent or to providing resource care in accordance with N.J.A.C. 3A:51-2.1(b)1, on the basis of age; disability; gender; religion; sexual orientation; parental status; or birth status, against:

1. Any person who requests information about becoming a resource parent;
2. A resource parent applicant;
3. A licensed resource parent;
4. A child needing placement in a resource home; or
5. A child placed in a resource home.

(c) Neither the Division nor any contract agency providing resource care services shall deny an individual the opportunity to become a resource parent on the basis of marital, civil union, or domestic partnership status.

(d) When a couple lives together, both partners shall be considered to be resource parents who shall meet the standards contained in N.J.A.C. 3A:51.

§ 3A:14-1.6 Dispute resolution

Any person included in the scope of this chapter, as specified in N.J.A.C. 3A:14-1.2(a), shall refer to N.J.A.C. 3A:5, Dispute Resolution and N.J.A.C. 3A:51-2.5 to determine if he or she has any opportunity available to resolve a dispute with the Division.

§ 3A:14-2.1 Department employees and household members as resource parents

(a) For purposes of this subchapter only, "Department employee" means a person who is employed in, or has a work station at, any of the Department of Children and Families' offices, and anyone who has access to computerized or paper files, which contain client information, including those persons who are regarded as independent contractors for other purposes.

(b) A Department employee or a member of the Department employee's household can become a licensed resource parent for a child under the Division's supervision only under the following circumstances:

1. A child needing resource care has a kinship connection to a relative or a family friend who is a Department employee or a member of the employee's household;

2. A Department employee or member of a Department employee's household was licensed as a resource parent prior to the Department employee being hired by the Department and at least one child placed by the Division continues to reside in the Department employee's home; or

3. A Department employee or member of the Department employee's household wants to adopt a child with special needs, as defined in N.J.A.C. 3A:23-1.1.

(c) Prior to a Department employee or household member applying to be a licensed resource parent, the Department employee shall complete the approval process for an outside activity and receive approval by the Department's ethics liaison. The approval by the ethics liaison becomes part of the Department employee's application to be a resource parent in accordance with N.J.A.C. 3A:51-2.1.

(d) The study of a Department employee's home shall be conducted by a Division representative assigned to an office where the Department employee has no connections, either personal or professional.

§ 3A:14-2.2 Relatives of an employee who have a separate household

(a) For the purpose of this subchapter, the term "relative" is defined as a person connected to a Department employee by blood, marriage, civil union, domestic partnership, or adoption.

(b) Any relative of a Department employee may apply and may be licensed to be a resource parent, as long as the relative lives in a separate household from the Department employee.

(c) Prior to a relative of a Department employee applying to be a licensed resource parent, the Department employee shall complete the approval process as stated in N.J.A.C. 3A:14-2.1(c) above.

(d) A Division representative of the office serving the geographic area in which the relative lives completes the home study unless the Department employee works in that office. In that situation, the Area Director assigns an office in an adjacent county to complete the home study, the placement, and the supervision of the placement.

(e) The Division representatives and Office of Licensing employees shall secure all records regarding the relative's home study and resource home, so that the Department employee has no access to them.

§ 3A:14-3.1 Criminal history records checks

(a) The Division representative or contract agency employee shall inform the resource parent applicant that fingerprints for State and Federal criminal history records checks must be taken, pursuant to N.J.S.A. 30:4C-26.8, for:

1. Each resource parent applicant and each adult household member; and

2. Each new adult household member who is new to the family, including each household member who reaches 18 years of age.

(b) The Division representative or contract agency employee shall also inform the resource parent applicant of the procedures for getting the fingerprints taken.

(c) The Division representative or contract agency employee shall obtain the results of the State and Federal criminal history records checks for each resource parent or applicant and adult household member after the fingerprints have been taken.

(d) Each Division representative and contract agency employee shall keep confidential all criminal history information obtained regarding the resource parent or applicant and each household member.

§ 3A:14-4.1 Division or contract agency responsibilities to a resource parent

(a) The Division representative or contract agency employee shall work with the resource parent to provide the child in placement with reasonable opportunities to attend religious activities and services in accordance with the child's preference and the wishes of the child's own parents.

(b) The Division representative or contract agency employee shall provide the resource parent with information on:

1. Nutrition;

2. Child health needs; and

3. Appropriate disciplinary practices.

(c) The Division representative or contract agency employee shall obtain the school transfer card promptly and give it to the resource parent if there is a need for the child to transfer to a different school upon placement with this resource parent.

(d) The Division representative or contract agency employee shall assist the resource parent to support and encourage the child in placement to engage in recreational and social activities appropriate to the age, interests and abilities of the child in placement.

(e) The Division representative or contract agency employee shall identify with the resource parent a child in placement's special transportation needs, if any, and how they will be met.

(f) The Division representative or contract agency employee shall provide the resource parent with a means of access to the Division on a 24-hour basis.

(g) The Division shall comply with the provisions of the agreement between the resource parent and the Division, including the system for payment of reimbursement.

(h) The Division representative or contract agency employee shall establish the resource parent's role in working with the parent to achieve the child's case goal. The Division representative or contract agency employee shall support the resource parent in fulfilling his or her role.

(i) The Division representative or contract agency employee shall inform the resource parent of the standards of confidentiality contained in N.J.S.A. 9:6-8.10a, 45 CFR 205.50 and N.J.A.C. 3A:3.

§ 3A:14-5.1 Pre-service training

(a) The Division shall hold pre-service training on a monthly basis in various locations throughout the State.

1. The Division shall use a standardized pre-service training curriculum.

2. A Division representative may provide the pre-service training at the applicant's home if the resource parent applicant demonstrates a compelling need to receive the training in his or her home.

(b) A Division representative shall conduct the pre-service training program and shall utilize an experienced resource parent who is approved by the Division as a co-trainer, as resources permit.

(c) During the initial phase of the pre-service training, the Division representative shall provide information about the standards for becoming a resource parent, the home study process, the resource home resource needs of the Division, and the Division's policies and procedures related to resource care, as specified in this chapter, N.J.A.C. 3A:51 , 3A:15, and 3A:17. The pre-service training shall include an explanation of:

1. The difference between the Division's foster care program and adoption program; and

2. The Division's requirements for becoming a resource parent, as outlined in N.J.A.C. 3A:51.

§ 3A:14-5.2 Reimbursement for resource parent applicant

(a) The resource parent applicant may request reimbursement of the cost of a physical examination necessary to provide the information required in N.J.A.C. 3A:51. The Division representative shall approve reimbursement at a rate determined by the Division, if the resource parent applicant's family has a verified income below 150 percent of the Federal Poverty Income Guidelines, as published in the Federal Register, and the examination is not available free of charge.

(b) The resource parent applicant may file for reimbursement for transportation, parking and babysitting costs incurred by the resource parent applicant, which are directly related to attendance at the pre-service training sessions. The resource parent applicant may file for reimbursement after completing the entire pre-service training program.

(c) The rates of reimbursement for the costs listed in (b) above are:

1. Car mileage at $ .31 per mile for travel to and from the training site;

2. The cost of bus or train fare, with a receipt;

3. The cost of a taxi, if no other means of transportation is available, with a receipt;

4. The cost of parking and tolls, with a receipt; and

5. Babysitting services at $ 2.50 per hour for one or two children, and $ 4.00 per hour for three or more children.

§ 3A:14-5.3 Home visit

(a) The Division representative shall visit the resource parent applicant's home at least one time as part of the study process.

(b) During the home visit, the Division representative shall:

1. Assess compliance with the sleeping space and life safety standards, as outlined in N.J.A.C. 3A:51-4, Physical Facility Requirements;

2. Interview each household member who is not participating in the pre-service training;

3. Discuss any inconsistencies or concerns by any party regarding any information gathered during the assessment process;

4. Verify identifying information about each family member and household member listed on the application;

5. Discuss the type of child acceptable and the potential impact of resource care on the family; and

6. Discuss any other questions raised by the resource parent applicant or any household member.

§ 3A:14-5.4 Resource parent applicant withdrawal

(a) A resource parent applicant may withdraw his or her application at any time during the licensing process.

(b) The Division shall consider that the resource parent applicant has withdrawn if the resource parent applicant:

1. Fails to complete the application process; or

2. States that he or she has decided to withdraw.

(c) The Division representative shall give the resource parent applicant written notice acknowledging the withdrawal and informing the resource parent applicant that he or she may reapply at any time.

§ 3A:14-5.5 Transportation reimbursement

The Division shall reimburse the resource parent for transportation for a child in placement's special needs with prior approval of the office manager. Special needs may include the treatment of physical, emotional, mental or cognitive conditions or to comply with a court summons or court order.

§ 3A:14-5.6 Resource parent's employment and supervision or child care for the child in placement

(a) If a single resource parent is, or both resource parents are, employed outside the home, the Division representative shall develop with the resource parent, as part of the case plan, a plan for the care and supervision of each child in placement while the resource parent is at work. The plan shall be appropriate to the age and needs of the child in placement, subject to supervisory approval, and in compliance with N.J.A.C. 3A:51-6.1(a)4.

(b) If the plan is approved, the Division shall pay for child care arrangements as outlined in the case plan, according to the rates established in N.J.A.C. 10:15-10.1.

(c) The participants of the Division's placement review, as indicated in N.J.A.C. 3A:13-3.6 and 3.7, shall review the child care plan.

Title 3A, Chapter 15 -- Services for Children in Out-of-Home Placement

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 30:4C-4(h) and 30:4C-26a.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2016 d.076, effective May 31, 2016.

See: 48 N.J.R. 23(a), 48 N.J.R. 1370(a).

Chapter 15, Services for Children in Out-of-Home Placement, was recodified from N.J.A.C. 10:122D, Services for Children in Out-of-Home Placement, by administrative change, effective January 3, 2017. As part of the recodification, attendant technical changes were made to the rule text concerning cross-references, agency names, addresses, etc. See: 49 N.J.R. 98(a).

§ 3A:15-1.1 Purpose

(a) The purpose of this subchapter is to ensure that each child placed by the Division in out-of-home placement shall have the opportunity to visit with parents, siblings and interested relatives. Visits with parents, siblings and other relatives may serve to:

1. Reinforce the child's identity;
2. Promote the child's need for stability, consistency, and permanency;
3. Maintain or establish family relationships;
4. Assess the parent's and other relative's motivation and ability to care for the child;
5. Provide an opportunity to model appropriate parenting behavior and skills; and
6. Facilitate the case goal of return home.

(b) The frequency and duration of visits are dependent on the purpose of the visits, the case goal and case plan and practical considerations of all parties. Visits that are frequent and of long duration are beneficial for most children placed in out-of-home placement and facilitate movement toward achieving a case goal that establishes permanency. The frequency and duration specified in each child's visitation schedule is a professional social work decision, which shall be made by the Division representatives, with full input from all those affected by the visitation plan. Unless otherwise limited by conditions set forth in N.J.A.C. 3A:14-1.4 and 3A:15-1.15, for most children in out-of-home placement, the goal is to hold a visit every week for a period as long in duration as possible.

§ 3A:15-1.2 Scope

The provisions of this subchapter shall apply to each child placed by the Division in an out-of-home placement, his or her parents, siblings, interested relatives, out-of-home placement provider, and the Division.

§ 3A:15-1.3 Definitions

The definitions in N.J.A.C. 3A:14-1.3 and 3A:51-1.3 are hereby incorporated in this subchapter by reference.

§ 3A:15-1.4 Visitation plan

(a) A written visitation plan shall be developed to identify the type and frequency of visits to be instituted for every child in out-of-home placement unless otherwise directed by the court. The visitation plan is included in the case plan, in accordance with N.J.A.C. 3A:12-1.7(b)7.

(b) The visitation plan may exclude specific persons from having visits.

(c) The visitation plan shall give full consideration to the child's safety.

(d) The visitation plan shall include visits with siblings, if any. Sibling visits may take place with parental visits or separately.

§ 3A:15-1.5 Developing the visitation plan

(a) The visitation plan for the first visit shall be developed and written prior to the date of placement or as soon as possible after the placement.

(b) The visitation plan for ongoing visits shall be completed within five working days of the initial date of placement.

(c) The visitation plan shall be evaluated and adjusted as needed and submitted in time for the first 45 day Child Placement Review, pursuant to N.J.S.A. 30:4C-50 et seq.

(d) For a child placed with a resource family parent or in shelter care, the visitation plan shall be developed through negotiation and agreement by the Division representative, the parents, the child, and other parties involved, such as relatives, a former resource family parent interested in visiting the child, siblings, and their representatives. For each child placed in a residential child care facility, the treatment team develops the visitation plan in accordance with N.J.A.C. 3A:55-6.1 and 6.6. For each child placed in a group home, the treatment team develops the visitation plan in accordance with N.J.A.C. 3A:56-6.1 and 6.6.

(e) Sections of the visitation plan shall be negotiated separately with the siblings or their representatives and other interested relatives.

(f) The Division representative shall encourage the out-of-home placement provider to participate in developing the visitation plan.

(g) The out-of-home placement provider shall be consulted for information pertinent to visitation.

§ 3A:15-1.6 Distribution of the visitation plan

The Division representative shall give a copy of the visitation plan to the parent, the out-of-home placement provider, the child, when of an appropriate age, and other parties, including siblings, who are involved in developing the visitation plan and their representatives.

§ 3A:15-1.7 Renegotiation of the visitation plan

(a) The Division representative shall renegotiate the visitation plan with all parties involved no less often than every six months.

(b) The Division representative shall also renegotiate the visitation plan:

1. When the case goal changes;

2. When circumstances change; or

3. Whenever any of the parties to the plan requests renegotiation.

§ 3A:15-1.8 Components of the visitation plan

(a) The visitation plan shall include the following:

1. The goal of the visits;
2. The location of visits;
3. The frequency and regularity of visits;
4. Who will participate in the visits;
5. The roles of participants other than the child;
6. Who will provide needed transportation;
7. The date and time of visits;
8. The length of visits;
9. Whether the visit will be supervised, and, if so, by whom; and
10. What each party shall be expected to do in order to change or cancel a visit.

§ 3A:15-1.9 Locations for visits

(a) Visits shall take place in the least restrictive, most comfortable setting possible. For example, visits may take place in the home of the parents, relatives or friends or in other suitable locations.

(b) Visits may also take place in the out-of-home placement, with the out-of-home placement provider's permission.

(c) Visits may take place in a Division office when:

1. Necessary to protect the child;
2. For the convenience of those participating in the visit; or
3. When other suitable locations are not available.

§ 3A:15-1.10 Determination of whether visit is to be supervised

(a) The parent or other visitors and the Division representative shall discuss the need for supervised visits at the time the visitation plan is negotiated or renegotiated.

(b) Unless the Division or the Superior Court, Chancery Division, Family Part finds a need for supervision, visits shall be unsupervised.

(c) If visits will be supervised, the plan shall contain a statement of the reason supervision is required. Reasons for the supervision of visits may include:

1. Facilitating interactions between the parent and the child;
2. Modeling positive parenting behavior;
3. Mediating conflict between the parent and the child; and
4. Providing protection for the child.

§ 3A:15-1.11 Supervision of visits

(a) Family, friends or others with whom the visitor and child feel comfortable may provide supervision with the agreement of all parties.

(b) Providers with whom the Division has contracts to supervise visitation may also be utilized.

(c) A Division representative may supervise visitation only under the following circumstances:

1. The Division finds that supervision by a Division representative is necessary to protect the child;

2. Supervision is needed and there is no other person appropriate to provide it;

3. The parent or child wants supervision by a Division representative;

4. The Division representative does not have enough information to determine that supervision is not needed; or

5. The Division does not have enough information to determine that the individual suggested by the parent or others to provide supervision is acceptable.

§ 3A:15-1.12 Division participation in visits

(a) Where the Division is not involved in supervising visitation, a Division representative shall participate in visits as necessary to formally assess the progress of visits and family relationships for the purpose of case planning.

(b) Whenever possible, the Division representative shall inform the participants in the visit in advance when he or she will participate.

§ 3A:15-1.13 Transportation for visits

(a) The Division representative shall provide or arrange for transportation of the child to the visit.

(b) The Division shall provide or pay for transportation when the parent or other relative lives in New Jersey and verifies that he or she cannot obtain or pay for his or her own transportation.

§ 3A:15-1.14 Standards for the visitation plan

(a) Except as limited in N.J.A.C. 3A:15-1.15(a), the visitation plan shall establish that:

1. The first visit between the child and parent shall be scheduled to occur as soon as possible, within five working days of the date of initial placement;

2. The frequency and duration of the visits shall be consistent with the purpose of visits as set forth in N.J.A.C. 3A:15-1.1;

3. The frequency and length of each visit shall be based upon the needs of the child, the parent, and other involved parties. Special consideration shall be given to the need for pre-school children to have frequent visits since their sense of time is different than that for older children or adults;

4. Overnight and weekend visits with the family shall be scheduled to occur frequently when the family can assume the increased child care responsibility and when the plan is to return the child to them;

5. Holiday visits shall be negotiated and addressed in the plan; and

6. When a scheduled visit is missed due to the inability of the person providing supervision or the Division representative not being able to participate in the visit, the visit shall be rescheduled whenever and as soon as possible.

§ 3A:15-1.15 Reasons to limit visits

(a) A reduction to the visitation schedule may be made for any of the following reasons:

1. The visit will be physically or psychologically harmful to the child even with supervision. This determination shall be based on:

i. A Division representative's direct observation of harm or potential harm;

ii. A report of harm to the Division in which the harm has been verified by a Division representative;

iii. A mental health therapist's recommendations;

iv. A pending or ongoing Division investigation of allegations that the child has been harmed by the visitor; or

v. The child's report of a harmful or potentially harmful situation;

2. The child requests limited visits when the case goal is not reunification, whether or not the visits are seen as harmful;

3. The parent requests limited or no visits despite the Division's efforts to explain the importance of visiting and the Division's offer to assist in arranging the visits;

4. The parent chronically misses scheduled visits despite the Division's efforts to advise of the importance of attending visits for the parent and the child;

5. A court order, including one that terminated parental rights, which prohibits visits or specifies a different schedule of visits; or

6. The visitor appears to be under the influence of drugs or alcohol.

(b) A supervisor shall review and approve or disapprove any reduction in the frequency or duration of visits, in accordance with any applicable court order.

(c) The Division representative shall inform the parent, child, and any other affected person in writing of the reason for the reduction.

(d) The Division representative shall assist the family or other parties to eliminate the causes for the limitation of visits when the conditions can be changed in order to increase the visits.

§ 3A:15-1.16 (Reserved)

§ 3A:15-2.1 Purpose

(a) The purpose of this subchapter is to identify the services that the Division shall provide to a child in out-of-home placement in its efforts to:

1. Provide the child with safe care while in out-of-home placement;

2. Meet the child's physical, psychological, and other developmental needs;

3. Assure the child's well-being;

4. Help the child to understand the reasons for his or her out-of-home placement, the case goal, and to adjust to being a child in out-of-home placement; and

5. Achieve the case goal, which reflects the permanency plan for the child.

§ 3A:15-2.2 Scope

The provisions of this subchapter shall apply to each child in out-of-home placement, his or her out-of-home placement provider, his or her family and the Division.

§ 3A:15-2.3 Definitions

The definitions in N.J.A.C. 3A:14-1.3 and 3A:51-1.3 are hereby incorporated into this subchapter by reference.

§ 3A:15-2.4 Case management

(a) The Division representative shall have face-to-face and other contact with the child, out-of-home placement provider, parent and other interested parties according to N.J.A.C. 3A:12-2 and which is written in the case plan in order to:

1. Develop, implement and update a case plan which includes the permanency plan by assessing case needs, identifying services to meet those needs, including the role and responsibility of each party regarding the services, and establishing the case goal and assessing progress toward achieving the case goal in a timely manner;

2. Provide advocacy and support services to all parties, within program and fiscal parameters;

3. Assist the child and out-of-home placement provider to establish and maintain an ongoing and supportive relationship for the duration of the child's placement;

4. Update the child, out-of-home placement provider, parents and other parties on the progress toward achieving the case goal, consistent with the confidentiality provisions of N.J.S.A. 9:6-8.10a and N.J.A.C. 3A:3;

5. Facilitate visits in accordance with the case plan between the child, parent, siblings and other interested relatives. See N.J.A.C. 3A:15-1, Visits between the child and the child's family; and

6. Meet the requirements of the Child Placement Review Act, N.J.S.A. 30:4C-50 et seq.

(b) The Division representative shall have face-to-face contact with the parent, when applicable, the out-of-home placement provider and the child in accordance with N.J.A.C. 3A:12-2.7, 2.8 and 2.9.

(a) The Division representative shall make every reasonable effort to assure that each child in out-of-home placement receives appropriate and necessary health care, including mental/behavioral health services.

(b) For each child initially entering out-of-home placement, the Division representative shall obtain a pre-placement assessment at the time of placement. The Division representative shall establish a health care record for each child and shall provide the out-of-home placement provider with a health care record, which documents health information concerning the child, including, but not limited to:

1. The names and addresses of the child's health care providers;

2. A record of the child's immunizations;

3. The child's known medical problems, if any, including the results of any lead tests;

4. The child's medications, if any;

5. The child's allergies, if any;

6. The child's birth and developmental history;

7. The family health history, if known and appropriate, in accordance with Federal regulations; and

8. The child's mental/behavioral health needs.

(c) The Division representative shall maintain a health care record for each child. The Division representative shall review and update the child's health record at the time of each placement into out-of-home placement.

(d) The Division representative shall provide the updated record to:

1. The out-of-home placement provider;

2. The child's parent upon reunification;

3. The adoptive parent or legal guardian;

4. The family court as part of the court report; and

5. The child upon exiting out-of-home placement at the time his or her case is closed.

(e) The Division representative shall ensure that the child shall receive a full medical examination within 60 days of placement.

(f) The Division representative shall assure that the child receives a medical examination at least annually after the initial medical examination performed at the time of placement and a dental examination at least semi-annually for each child age three years and older. The type and frequency of the examinations shall be based on the child's age and medical needs. The Division representative shall assure that each child with a suspected mental/behavioral health need receives a mental/behavioral health assessment and identified follow-up care. At a minimum, the child's examinations shall comply with the Early and

Periodic Screening and Diagnostic Treatment periodicity schedule in accordance with N.J.A.C. 10:54-5.10 through 5.13.

(g) The out-of-home placement provider shall be responsible for arranging and providing care to meet the child's health needs, including, but not limited to, medical and dental examinations, ongoing care, mental/behavioral health services and follow-up care, as agreed to with the Division representative, and shall provide the Division representative with information concerning the child's health care, including mental/behavioral health care, and needs.

(h) The Division representative shall share health care information concerning the child with the child's parents, and the out-of-home placement provider, at the time of the child's placement or as soon as practical.

§ 3A:15-2.6 Educational services

(a) The Division representative shall make every reasonable effort to assure that every child in out-of-home placement receives an education appropriate to his or her abilities as provided for under State laws governing compulsory education and education for disabled children.

(b) The Division representative shall develop an education record for each child initially entering out-of-home placement, who is subject to the State laws governing compulsory education, see N.J.S.A. 18A, generally. This record shall include, but not be limited to:

1. The names and addresses of the child's educational providers;

2. The child's grade level performance;

3. The child's school record; and

4. Assurance that the child's placement in out-of-home placement takes into account proximity to the school in which the child was enrolled at the time of placement.

(c) The Division representative shall provide the out-of-home placement provider with the child's education record at the time of initial placement.

(d) The Division representative shall review and update the child's education record at the time of each out-of-home placement and shall provide the updated record to the out-of-home placement provider.

(e) The out-of-home placement provider shall:

1. Make every effort to ensure that the child attends school regularly;

2. Encourage good study habits;

3. Monitor the child's academic progress; and

4. Inform the Division representative of the child's academic progress.

(f) The Division representative shall:

1. Ensure that the child is enrolled in school, if age appropriate. If necessary, the Division representative shall give the out-of-home placement provider authorization to enroll the child in school;

2. Maintain and update the education record regarding the child's progress in school;

3. Coordinate, as appropriate, activities among the school personnel, the out-of-home placement provider, and the parent;

4. Inform the parent of the child's school progress and of the parent's right and responsibility to be involved in the child's education; and

5. Refer the child for a child study team evaluation, as needed, in accordance with N.J.A.C. 6A:14-3.3(a)3ii.

§ 3A:15-2.7 Self-sufficiency skills for adolescent children

(a) The Division representative, in consultation with the out-of-home placement provider, the child, the parent and other significant adults, shall develop a written plan to prepare the child for self-sufficient living and shall reevaluate the plan at least yearly.

(b) The plan shall be developed for each child in out-of-home placement:

1. Within six months of the date of placement for those entering out-of-home placement at age 14 or older; or

2. No later than age 14, for those already in out-of-home placement.

(c) The plan shall be based upon an assessment of the child's strengths, resources, interests and needs.

(d) The plan shall outline the necessary skills the child must master to achieve self-sufficiency and the responsibilities of the Division and other parties to assist the child to develop these skills.

(e) The Division representative shall identify at least one significant adult in the child's life who will function as an adult advisor to the child to assist in the development of the plan and the life skills needed by the child. The adult advisor may be the resource family parent.

(f) The Division representative shall refer the child to resources for post-secondary educational opportunities, as requested by the child and in accordance with N.J.S.A. 9:17B-2 and N.J.A.C. 3A:13-5, Tuition Program.

§ 3A:15-2.8 Other services to children in out-of-home placement

(a) In addition to the basic services of case management, food, clothing, shelter, education, health care, and self-sufficiency skills, the Division may use other services, which meet a child's individual needs.

(b) When specific service needs are identified, the Division representative shall arrange for appropriate community resources to provide the service to the child in a timely fashion, as the services are available.

(c) When there are insufficient child welfare services available to meet the child's needs, the Division is responsible for encouraging and promoting the development of the needed services in accordance with the provisions of N.J.S.A. 30:4C-1, 3 and 4.

Title 3A, Chapter 16 -- Division Utilization of Family Child Care Providers

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 30:4C-4(h).

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2012 d.058, effective February 13, 2012.

See: 43 N.J.R. 364(a), 44 N.J.R. 674(a).

Readopted with amendments effective August 2, 2019.

Chapter 16, Division Utilization of Family Child Care Providers, was recodified from N.J.A.C. 10:126A, Division Utilization of Family Child Care Providers, by administrative change, effective January 3, 2017. As part of the recodification, attendant technical changes were made to the rule text concerning cross-references, agency names, addresses, etc. See: 49 N.J.R. 98(a).

§ 3A:16-1.1 Purpose and scope

The purpose of this chapter is to outline the standards under which the Division of Child Protection and Permanency shall authorize family child care services for a child receiving child welfare services, either directly or under a contract, with a family child care provider. This chapter requires that any Division-authorized family child care services purchased by the Department of Human Services or its agents be provided by a family child care provider who meets the standards of and is registered in accordance with N.J.A.C. 3A:54, Manual of Requirements for Family Child Care Registration. The standards set by this chapter are more stringent than those set by N.J.A.C. 3A:54 for registered family child care providers in general because family child care is often utilized by the Division to relieve the effects of, and prevent abuse or neglect or to provide supervision or relief needed by, a child's family.

§ 3A:16-1.2 Definitions

The words and terms used in this chapter shall have the same meanings as defined in N.J.A.C. 3A:54-1.2, Definitions, which is hereby incorporated into this chapter by reference.

§ 3A:16-2.1 Eligible providers of Division-authorized family child care services funded by the Department of Human Services or its agents

The Division shall utilize the services of only those family child care providers who meet the requirements of and are registered in accordance with the provisions of N.J.A.C. 3A:54, Manual of Requirements for Family Child Care Registration.

§ 3A:16-2.2 Maximum number of children

For any family child care provider who receives payment from the Department of Human Services or its agents, either directly or through contract, for family child care services for one or more children, as authorized by the Division, the maximum number of children cared for by the family child care provider shall not exceed five children at a time, regardless of fee-paying or non-fee-paying status. The total of five children shall include the children placed with the provider and the provider's own children, only if the children in placement or the provider’s own children are age five or younger. No more than two of the total number of children cared for by the family child care provider shall be age 23 months or younger.

§ 3A:16-2.3 Exception to maximum number of children

(a) The Director or designee may approve, in writing, the care of additional children over the maximum, by a family child care provider who receives payment from the Department of Human Services or its agents, as authorized by the Division, provided all of the following conditions are met:

1. A provider assistant, as defined in N.J.A.C. 3A:54-1.2, is present in the home;

2. The limits set by N.J.A.C. 3A:54-6.1, Maximum number of children, have not been exceeded; and

3. The approval, in writing, of the Director or designee has been obtained prior to the expansion beyond the limits set by this chapter, of the number of children receiving family child care who are authorized by the Division and funded by the Department of Human Services or its agents.

§ 3A:16-2.4 Use of family child care provider when child abuse or neglect is substantiated

(a) The Division shall stop using, and the Department of Human Services or its agents shall suspend payment to, a family child care provider for each child under the Division's supervision when the Department of Children and Families' child protection investigator:

1. Completes a child protection investigation of the provider or a family member; and

2. Makes a finding of substantiated in accordance with N.J.A.C. 3A:10-7.3(c)1.

(b) When a family child care provider appeals the finding of substantiated, the Division shall not authorize use of the family child care provider for any child supervised by the Division until:

1. All appeals are completed; and

2. The finding of substantiated has been overturned.

Title 3A, Chapter 17 -- Removal of Children in Placement from Resource Family Homes

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 30:4C-4(h) and 30:4C-26.a.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2016 d.063, effective May 16, 2016.

See: 48 N.J.R. 25(a), 48 N.J.R. 1302(a).

Chapter 17, Removal of Children in Placement from Resource Family Homes, was recodified from N.J.A.C. 10:122E, Removal of Children in Placement from Resource Family Homes, by administrative change, effective January 3, 2017. As part of the recodification, attendant technical changes were made to the rule text concerning cross-references, agency names, addresses, etc. See: 49 N.J.R. 98(a).

§ 3A:17-1.1 Authority

Pursuant to N.J.S.A. 30:4C-4(h) and 30:4C-26.a, the Division of Child Protection and Permanency, Department of Children and Families, is authorized to establish rules for the removal by the Division of a child in placement from a resource family home. Under the above statute, the Division has the discretionary authority to remove a child in placement from a resource family home at any time with or without the consent of the resource family parent, parent, or child in placement.

3A:17-1.2 Purpose

The purpose of this chapter is to describe when it is appropriate for the Division to remove a child in placement from a resource family home. A child in placement may be removed from a resource family home in order to ensure the child's safety, to protect the child from risk of harm, to ensure that the case goal is implemented, and to ensure that the interests of the Division, the child in placement, the parents and the resource family parent are considered.

§ 3A:17-1.3 Scope

The provisions of this chapter shall apply to each child in placement, his or her family, each resource family licensed by the Office of Licensing for the placement of children under the Division's supervision, and the Division.

§ 3A:17-1.4 Definitions

The definitions in N.J.A.C. 3A:14-1.3 and 3A:51-1.3 are hereby incorporated in this chapter by reference.

§ 3A:17-2.1 Removal in emergency situations

(a) The Division representative shall remove a child in placement from a resource family home when the Division determines that the child is not safe in the resource family home.

(b) When abuse or neglect of any child in a resource family home is substantiated, the office manager may consult with:

1. The Institutional Abuse Investigation Unit of the Department or the Office of the Public Defender acting as the Division's agent in conflict matters, when that unit conducted the child abuse and neglect investigation; and

2. The Office of Licensing to determine if the resource family home license will be denied, suspended, or revoked, if the Office of Licensing shall refuse to renew the license, or if the Office of Licensing shall permit the home to be licensed for the placement or continued placement of the children already in placement or recommended for placement in the home in accordance with N.J.A.C. 3A:51-5.5(b).

(c) When abuse or neglect of any child in a resource family home is substantiated, the office manager shall determine if each child in placement is safe in the resource family home and then:

1. Determine whether to remove any child in placement in the resource family home and, if necessary, direct a Division representative to remove the child; or

2. Recommend to the Area Director that a child in placement continue to be placed in the resource family home, based upon the considerations set forth in N.J.A.C. 3A:17-2.5(a).

(d) The Area Director decides whether or not to remove the child in placement from the resource family home, based on the considerations in N.J.A.C. 3A:17-2.5(a), when child abuse or neglect of any child is substantiated in a resource family home. When the Area Director determines that it is in the child's interest to keep the child in the resource family home, the Area Director shall:

1. Determine that each condition listed in N.J.A.C. 3A:51-5.5(b) has been met; and

2. Determine if the Office of Licensing has given approval, in accordance with N.J.A.C. 3A:51-5.5(b)5.

(e) A resource family parent may request an emergency removal of a child in placement and the Division representative shall remove the child in placement when:

1. The child in placement is at risk of harm if he or she remains in the resource family home; or

2. The resource family is at risk of harm if the child remains in the resource family home.

(f) A resource family parent may request an emergency removal of a child in placement when the resource family is experiencing a personal emergency and is unable to make alternate appropriate plans for the child. The Division representative shall respond promptly and shall remove the child in placement when necessary.

(g) A child in placement may request emergency removal from his or her resource family home and the Division representative shall remove the child in placement when the child is not safe in the resource family home.

(h) In all emergency cases, the Division representative shall document in the child's electronic case record and the resource family home record, the decision to remove or not remove the child and shall inform the resource family parent, the child in placement, the parents and other interested parties of the outcome.

§ 3A:17-2.2 Removal in non-emergency situations

(a) The Division representative may remove a child in placement from a resource family home for any of the following reasons:

1. The child's case goal is furthered or achieved by the move or a court order is being followed, for example, return to family, placement in an adoptive home or uniting a child in placement with siblings.

2. The child has a need, which cannot be met by the current resource family.

3. There is documented evidence that the resource family engages in behavior, which is detrimental to any child in placement in that resource family home.

4. There is documented evidence that the resource family disagrees with the approved case plan and repeatedly fails to cooperate with the Division or to make the child in placement available for visits or services, which are part of the approved case plan, despite the Division representative's attempts to involve the resource family in remediating the situation.

5. The resource family has a pattern of violating any Division rules, which may have a negative impact on any child in placement, despite attempts by the Division representative to ensure compliance.

(b) A resource family parent may request that a child in placement be removed, giving the Division representative 15 days notice to make suitable alternate arrangements. The resource family parent shall state the reason for the request.

(c) A child in placement may request to be removed from a resource family home. The child shall state the reason for the request.

(d) The parent of a child in placement may request that the child be removed from the resource family home. The parent shall state the reason for the request.

§ 3A:17-2.3 Procedures prior to a non-emergency removal

(a) Prior to a non-emergency removal, the Division representative shall interview the child in placement, the resource family parent, and any appropriate collateral contacts, including the parent, to determine:

1. Information from the child in placement about any problems with the placement and his or her preferences;

2. Information from the resource family parent about any problems with the placement and his or her preferences;

3. Information from the parent about any problems with the placement and his or her preferences, when the parent requests removal; and

4. Whether support services can remedy the problem.

(b) The Division representative shall inform the child in placement, the resource family parent, the parent, and any appropriate contacts at least 30 days prior to the move when the child will be removed to further or achieve the case goal or as soon as possible when a court order is being followed.

(c) The Division representative shall inform the parent of the need to change placements, if he or she is available.

(d) The Division representative shall remove the child in placement within 15 days of the resource family parent's request.

(e) When the child or parent has requested removal, the Division representative shall discuss the request with supervisory staff. The Division representatives shall make the decision within five days of the request. The Division representative shall inform the child in placement or parent of the decision and shall remove the child in placement within 15 days of the original request when it is determined that removal will occur.

(f) A Division representative shall document in the child's electronic case record and the resource family home record the decision to remove or not remove the child in placement, including the reasons.

§ 3A:17-2.4 Removal due to criminal conviction

(a) The Division representative shall remove the children in placement from the resource family home when any resource family parent or household member has been convicted of a crime listed in N.J.S.A. 30:4C-26.8 in the following circumstances:

1. The resource family home has been licensed as being in substantial compliance and a Federal criminal history check is returned to the Division with a conviction of a crime cited in (a) above;

2. A new resource family parent or household member moves into an already licensed resource family home with a conviction of a crime as cited in (a) above; or

3. Any licensed resource family parent or household member who has had a completed criminal history check, has been subsequently convicted of a crime cited in (a) above, pursuant to N.J.S.A. 30:4C-27.8b.

(b) The office manager shall determine whether or not to remove the children in placement from a licensed resource family home when:

1. Any licensed resource family parent or household member has been convicted of a non-violent criminal or disorderly persons offense;

2. Any licensed resource family parent or household member has been convicted of a violent criminal or disorderly persons offense involving crimes not cited in N.J.S.A. 30:4C-26.8; or

3. Any licensed resource family parent or household member was convicted of one of the crimes cited in N.J.S.A. 30:4C-26.8, and five or more years have passed since he or she was terminated from probation or parole or was released without probation or parole from a correctional facility.

(c) Under the circumstances in (b)1 above, if the office manager decides it is not in the child's best interest to be removed from this resource family home, the office manager shall recommend to the Office of Licensing that the child be permitted to continue to be placed in the resource family home.

(d) Under the circumstances in (b)2 and 3 above, if the office manager decides it is not in the child's best interest to be removed from this resource family home, the office manager shall recommend to the Area Director, who may recommend to the Office of Licensing, that the child be permitted to continue to be placed in the resource family home.

(e) The determination made by the office manager in (b), (c) and (d) above, and the Area Director in (d) above shall be based upon the criteria listed in N.J.A.C. 3A:17-2.5(a).

(f) The decision made by the Office of Licensing in (c) and (d) above, to approve or deny the child's placement in the resource family home, shall be made on a case-by-case basis, based upon the criteria listed in N.J.A.C. 3A:51-2.2(b)3.

§ 3A:17-2.5 Considerations in deciding whether or not to remove

(a) The Division representative shall consider the following points when deciding whether to remove a child in placement, in emergency and non-emergency situations:

1. The age of the child in placement;

2. The length of stay in this resource family home;

3. The relationship between the child in placement and the resource family;

4. The number and impact of prior moves on the child in placement;

5. The child's adjustment to the extended resource family and community;

6. The child's expressed wishes;

7. The resource family's history with the Division and of successful parenting;

8. The availability of support services to maintain the placement;

9. The willingness of the resource family and the child in placement to work to overcome problems;

10. The child's injuries for which neither the resource family nor the child in placement can offer a reasonable explanation;

11. The resource family's cooperation or lack of cooperation with any child abuse and neglect investigation;

12. The child's allegations of child abuse or neglect;

13. The child's immediate safety;

14. The child's risk of future harm; and

15. The location of the child's siblings and the ability to keep them together or reunite them or facilitate visits.

(b) A child in placement may be removed temporarily from a resource family home before or during a child abuse or neglect investigation for the child's safety and protection. If the Division representative makes a finding of unfounded (as defined in N.J.A.C. 3A:10-7.3(c)4), the Division representative shall use the criteria listed in (a) above to determine whether the child who has been removed will be returned to the resource family home.

§ 3A:17-2.6 Notification

(a) The Division representative shall notify each parent who retains legal rights to the child and any relative who visits, when the child in placement will be removed or has been removed in an emergency. The Division representative shall also inform the child's parents as soon as possible after the child is placed.

(b) The Division representative shall notify the Deputy Attorney General responsible for the case when a child in placement will be removed or has been removed in an emergency when:

1. The child in placement is the subject of a case in litigation; or

2. Commencement of guardianship litigation for the child in placement is imminent.

(c) The Division representative shall notify the Child Placement Review Board, the family part of the Chancery Division of the Superior Court, and the child's Law Guardian, if any, when there is a change in placement of any child in placement known to the court.

(d) The Division representative who removes the child in placement shall notify each other Division representative who supervises a child in placement in the resource family home and the Resource Family Support Unit that supervises the resource family home about the removal.

(e) The Division representative shall inform the resource family parent immediately of the removal and the reasons for removal if the child in placement was not removed directly from his or her physical care. If there is a difference of opinion between the resource family parent and the Division representative regarding the removal, the Division representative shall inform the resource family parent in writing of the reasons for the decision, whether the resource family parent may have the right to appeal, and that to appeal the removal, the procedures in N.J.A.C. 3A:5 shall be followed.

§ 3A:17-2.7 Disagreements

The Division representative, the child in placement and the resource family shall try to resolve any disagreement before the child is removed, unless an emergency removal is necessary.

Title 3A, Chapter 18 -- New Jersey Safe Haven Infant Protection Act Procedures and Requirements

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 30:4C-4(h), 15.1, and 15.5 et seq.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2015 d.076, effective May 4, 2015.

See: 46 N.J.R. 1927(a), 47 N.J.R. 900(a).

Chapter 18, New Jersey Safe Haven Infant Protection Act Procedures and Requirements, was recodified from N.J.A.C. 10:133K, New Jersey Safe Haven Infant Protection Act Procedures and Requirements, by administrative change, effective January 3, 2017. As part of the recodification, attendant technical changes were made to the rule text concerning cross-references, agency names, addresses, etc. See: 49 N.J.R. 98(a).

§ 3A:18-1.1 Purpose

The purpose of this chapter is to provide instruction and guidance for the implementation of the New Jersey Safe Haven Infant Protection Act, N.J.S.A. 30:4C-15.6 et seq. These rules ensure that a parent or parents who want to permanently give up parental rights to an infant will have a safe place to leave the live infant, rather than abandoning the infant in a life-threatening situation where the infant could be harmed or die. These rules permit the parent to remain anonymous and provide the parent with an affirmative defense against prosecution for abandonment under specified circumstances.

§ 3A:18-1.2 Scope

The provisions of this chapter shall apply to each safe haven infant, a parent who wishes to permanently give up parental rights to his or her infant, a person acting on behalf of the parent, police officers, firefighters, emergency medical responders, and hospital staff who have before them an infant who may be a safe haven infant, and employees of the Department of Children and Families and the Division of Child Protection and Permanency.

§ 3A:18-1.3 Definitions

(a) The definitions in N.J.A.C. 3A:11-1.3, Definitions, are hereby incorporated into this chapter by reference. A definition in (b) below applies to this chapter if any word or term is defined in both (b) below and N.J.A.C. 3A:11-1.3.

(b) The words and terms used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

1. "Non-identifying information" means information about an infant which is not intended to identify his or her parents or birth family.

2. "Parent" means an infant's mother or father.

§ 3A:18-1.4 Role of the State Central Registry for safe haven infant cases

(a) The State Central Registry maintains the 24-hour, toll-free hotline for accepting calls related to safe haven for infants pursuant to N.J.S.A. 30:4C-15.9.

(b) The hotline shall be known as the Safe Haven for Infants Hotline, and can be reached by dialing 1-877-839-2339.

(c) The hotline shall serve the following purposes:

1. To provide information, support and guidance to persons who may be considering giving up or abandoning a newborn or an unborn child;

2. To receive and process a call from a hospital emergency department, when a live infant is brought there from a police station, fire department, ambulance, or when a live infant is brought directly to the hospital emergency department by a parent or other person acting on behalf of the parent pursuant to N.J.S.A. 30:4C-15.7.b. Upon receipt of the call from a hospital emergency department, a hotline representative shall document the incident in writing;

3. To provide education and information to the public to:

i. Promote safe placement alternatives for newborn infants;

ii. Explain procedures established by N.J.S.A. 30:4C-15.5 et seq., including the confidentiality offered to parents pursuant to N.J.S.A. 30:4C-15.7.g, and that N.J.S.A. 30:4C-15.7.e provides for an affirmative defense to prosecution for abandonment;

iii. Explain adoption procedures applicable under New Jersey State law; and

iv. Refer adoption inquiries to the appropriate office or agency in the Department of Children and Families; and

4. To monitor the handling of safe haven infant inquiries and calls.

§ 3A:18-1.5 Affirmative defense to prosecution

(a) Pursuant to N.J.S.A. 30:4C-15.7.e, it shall be an affirmative defense to a charge of infant abandonment if a parent, or a person acting on behalf of the parent, voluntarily brings a live infant, to, and leaves the infant with, an officer at a police station, a firefighter at a fire department, or an emergency medical responder at an ambulance, or an employee of a hospital emergency department, without expressing an intent to return for the infant.

(b) Nothing in this section shall be construed to create a defense to any prosecution arising from an act of abuse or neglect committed against the infant before he or she was brought to and left at a police station, fire department, ambulance, or hospital emergency department.

(c) Nothing in this section shall preclude the Division of Child Protection and Permanency or the police from conducting a child protection investigation, if the Division or the police have reason to believe that the infant was abused or neglected.

§ 3A:18-1.6 Anonymity of the parent or other person acting on behalf of the parent permitted, provision of information strictly voluntary

(a) A parent or other person who brings an infant to, and leaves the infant at, a police station, fire department, ambulance, or hospital emergency department pursuant to N.J.S.A. 30:4C-15.7 shall not be required to disclose his or her name or the name of the parent, provide any identifying or non-identifying information about the infant or birth family, or provide any background or medical information about the infant or birth family.

(b) A parent or other person who brings an infant to, and leaves the infant at, a police station, fire department, ambulance, or hospital emergency department pursuant to N.J.S.A. 30:4C-15.7 may voluntarily disclose identifying or non-identifying information to assist in planning for the infant's care and treatment pursuant to N.J.S.A. 30:4C-15.7.g.

(c) A parent or other person who brings an infant to, and leaves the infant at, a police station, fire department, ambulance, or hospital emergency department pursuant to N.J.S.A. 30:4C-15.7 shall be provided with the Safe Haven for Infants Hotline telephone number in case he or she wants to provide additional information about the infant at a later date or has any questions regarding the status of the infant.

§ 3A:18-1.7 Actions taken by police, firefighter, emergency medical responder, or hospital staff when infant brought to the police station, fire department, ambulance, or emergency department of hospital

(a) When a person appears at a police station, fire department, ambulance, or emergency department of a hospital with an infant and demonstrates, by action or in words, that he or she wishes to leave the infant behind, a police officer, firefighter, emergency medical responder, or hospital staff shall initiate action, as necessary, in an attempt to determine:

1. Whether the person is acting voluntarily, on his or her own volition; and

2. If the person intends to return for the infant or seeks to permanently give up all rights to the infant.

(b) If the police officer, fire fighter, emergency medical responder, or hospital staff determines that the person appears to be acting voluntarily, on his or her own volition, and has no intent to return for the infant, the police officer, firefighter, emergency medical responder, or hospital staff shall:

1. Advise the person of the right to remain anonymous in accordance with N.J.A.C. 3A:18-1.6(a);

2. Advise the person that he or she may voluntarily disclose information in accordance with N.J.A.C. 3A:18-1.6(b); and

3. Transport the infant or arrange for the infant's safe transport to a local hospital emergency department pursuant to N.J.S.A. 30:4C-15.7a.

(c) If the infant is injured or appears to be abused or neglected, the police, firefighter, emergency medical responder, or hospital staff shall immediately notify the Division of Child Protection and Permanency in accordance with N.J.S.A. 9:6-8:10, and consult the county prosecutor in accordance with local protocols.

(d) The Division of State Police shall assist the Division representative to search listings of missing children pursuant to N.J.S.A. 30:4C-15.7.c and in accordance with N.J.A.C. 3A:18-1.10(a)2, to determine if the infant has been reported missing to the authorities.

1. A State Police detective shall contact the county prosecutor's office to advise the county prosecutor that a child who appears to be a safe haven infant has been brought to, and left at, a hospital in his or her jurisdiction.

§ 3A:18-1.8 Actions taken by hospital staff when handling safe haven infant at hospital

(a) When hospital staff has a safe haven infant before him or her, pursuant to N.J.S.A. 30:4C-15.7.f(1) through (4), hospital staff shall:

1. Take physical custody of the infant from the parent or other person, police officer, firefighter, or emergency medical responder;

2. Examine the infant;

3. Advise the police immediately and the State Central Registry pursuant to N.J.S.A. 9:6-8.10, if, upon examination, the infant appears to have been abused or neglected;

4. Admit the infant and take any action necessary to protect the infant's physical health and safety;

5. Obtain information from the parent, other person, police officer, firefighter, or emergency medical responder and document it in the infant's medical chart in accordance with N.J.A.C. 3A:18-1.9, including all identifying and non-identifying information about the infant, his or her parents and birth family, where available, and details regarding the full circumstances of the infant's appearance at the police station, fire department, or ambulance;

6. Notify the Safe Haven for Infants Hotline in accordance with N.J.A.C. 3A:18-1.4(c)2, no later than the first business day after taking possession of the infant from the police, pursuant to N.J.S.A. 30:4C-15.7b(3);

7. Administer routine tests and treatment as would be provided to any newborn delivered at, or brought to a New Jersey hospital within 30 days of birth;

8. Comply with any court order obtained by the Division, including deoxyribonucleic acid (DNA) profiling and human immunodeficiency virus (HIV) testing and other medical testing of the infant;

9. Notify the Division of the infant's anticipated discharge date, to enable the Division to identify and prepare a selected adoptive home for the infant, if a suitable home is available which can meet the infant's needs; and

10. Offer the person services, medical care, or a referral for services, as appropriate.

§ 3A:18-1.9 Police officers, firefighters, emergency medical responders, and hospital staff gather information, record in police, fire department, or ambulance incident report and infant's medical chart

(a) To assist the Division of Child Protection and Permanency in planning for the care of the safe haven infant, the police, firefighter, emergency medical responder, or hospital staff shall gather and record identifying and non-identifying information about the infant, if voluntarily provided by the person who brought the infant to, and left the infant at, the police station, fire department, ambulance, or hospital emergency department.

(b) In accordance with N.J.A.C. 3A:18-1.6(a), before gathering or recording any information, the police officer, firefighter, emergency medical responder, or hospital employee shall advise the person who brought the infant to the police station, fire department, ambulance, or hospital emergency department of his or her right to remain anonymous pursuant to N.J.S.A. 30:4C-15.7.g.

(c) If the parent or other person who brought the infant to the police station, fire department, or ambulance demonstrates a willingness to provide background or health information, a police officer, firefighter, or emergency medical responder shall record the information, to the extent such information is voluntarily provided, in the police, fire department, or ambulance incident report and shall share the information with a hospital employee. A hospital employee shall record background or health information in the infant's medical chart, if provided by the police officer, firefighter, emergency medical responder, or when provided by the parent or other person who brought an infant directly to the hospital, to the extent such information is voluntarily provided. The information to record includes, but is not limited to, the following:

1. Information about the infant's present health, including whether the infant has any physical or developmental disabilities, problems or limitations;

2. Information about the infant's ethnicity, race and religion of origin;

3. Information about the composition of the infant's birth family, including but not limited to the age of each parent and whether the infant has any siblings;

4. Whether the infant was given a name, and, if so, what name;

5. Information about the infant's date and place of birth;

6. Information about the infant's pre-natal history and care, whether the infant was full term, and the infant's birth weight;

7. Information about the physical and mental health of each parent, and whether either parent had any hospitalizations;

8. Whether either parent is human immunodeficiency virus (HIV) positive, has acquired immune deficiency syndrome (AIDS), or has any other serious medical problems or conditions;

9. Whether the birth mother used drugs, took medication or consumed alcohol while pregnant;

10. Information about why the parent or parents want to permanently give up the infant; and

11. Whether the birth father and extended family members are aware of the birth of the infant and the mother's plan to give up the infant.

§ 3A:18-1.10 Action taken by the Division upon receipt of a referral of a safe haven infant

(a) The hotline representative shall assign each referral of a safe haven infant an immediate response.

(b) Upon receipt of a referral from the Safe Haven for Infants Hotline pursuant to N.J.A.C. 3A:18-1.4(c)2i, the Division representative shall:

1. Notify the Division of State Police that a referral of a safe haven infant has been received, and work cooperatively with that agency to enable the State Police to make a thorough search of all listings of missing children in accordance with N.J.A.C. 3A:18-1.7(d), pursuant to N.J.S.A. 30:4C-15.7c, to determine if the infant has been reported as a missing child;

2. Notify the police department that is responsible for the jurisdiction in which the hospital is located that a referral of a safe haven infant has been received, unless the infant was brought first to, and left at, that police station;

3. Assume care, custody and control of the infant as an emergency removal without court order or parental consent pursuant to N.J.S.A. 9:6-8.29 and 8.30, and thereby petition the Family Court, by no later than two court days, for an order which shall include:

i. Custody of the infant; and

ii. Authorization to perform deoxyribonucleic acid (DNA) profiling and human immunodeficiency virus (HIV) and other medical testing of the infant;

4. Comply with the provisions of the court order;

5. Arrange appropriate placement when the infant is medically cleared for discharge from the hospital, placing the infant in a selected adoptive home, if a suitable home is available which can meet the infant's needs;

6. Request a copy of the infant's medical chart, including any written identifying and non-identifying information about the safe haven infant recorded therein pursuant to N.J.A.C. 3A:18-1.9;

7. Request a copy of the police, fire department, or ambulance incident report, if the safe haven infant was brought to a police station, fire department, or ambulance before being transported to the hospital; and

8. File for a termination of parental rights in accordance with N.J.A.C. 3A:21, Termination of Parental Rights, and pursuant to N.J.S.A. 30:4C-15.1.b(3), no later than 21 days after assuming care, custody and control of the infant, if no parent or relative has come forward by that date who is willing and able to care for the infant, except as specified at N.J.A.C. 3A:18-1.12.

§ 3A:18-1.11 Division not required to search for or identify parents or reunify birth family

(a) If an exception to the requirement for reasonable efforts to reunify the infant with a parent is established pursuant to N.J.S.A. 30:4C-11.3, a Division representative shall not be required to initiate action to search for or otherwise identify the parent or birth family of a safe haven infant or attempt to reunify pursuant to N.J.S.A. 30:4C-15.8. The Division shall place the infant with a potential adoptive parent as soon as possible.

(b) If the Division becomes aware of the identity of the infant's parent, birth family or the person who brought the infant to, and left the infant at, the police station, fire department, ambulance, or hospital emergency department, a Division representative shall consult the Deputy Attorney General to determine a course of action, as specified at N.J.A.C. 3A:18-1.12.

§ 3A:18-1.12 Actions taken when identification of safe haven infant's parent or family is determined

(a) If the Division becomes aware of the identity of a safe haven infant's parent, birth family, or the person who brought the infant to, and left the infant at, the police station, fire department, ambulance, or hospital emergency department before the parental rights of the infant's parent or parents are terminated, the Division representative shall consult the Deputy Attorney General in order to make a determination, on a case-by-case basis, whether to attempt to contact the parent or parents or to notify members of the birth family of the existence of the safe haven infant, to thereby work with the parent or parents or family in developing a permanent plan for the infant, or to pursue another course of action. When making a determination, the factors to consider shall include, but shall not be limited to, the following;

1. The safety and protection of the infant;

2. The safety of each parent;

3. The intent or apparent intent of the parent, or other person acting on behalf of the parent, who brought the infant to the police station, fire department, ambulance, or hospital emergency department under the protections provided by N.J.S.A. 30:4C-15.7.e;

4. The parental rights of the other parent, including the rights of the birth father and the legal father; and

5. The infant's rights to a permanent home, including the infant's right to reside with and be raised by a parent or another member of his or her birth family, whenever possible.

§ 3A:18-1.13 Police officers, firefighters, emergency medical responders, and hospital staff acting in good faith immune from liability

Each police officer, firefighter, emergency medical responder, and the governmental jurisdiction or private organization employing that police officer, firefighter, or emergency medical responder and each employee of a hospital emergency department and the hospital employing that individual shall incur no civil or criminal liability for any good faith acts or omissions performed pursuant to N.J.S.A. 30:4C-15.7.f.

§ 3A:18-1.14 (Reserved)

Title 3A, Chapter 19 -- Court Actions and Procedures

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 30:4C-4(h) and 30:4C-4.1 and 4.2.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2014 d.126, effective July 11, 2014.

See: 46 N.J.R. 480(a), 46 N.J.R. 1747(b).

Chapter 19, Court Actions and Procedures, was recodified from N.J.A.C. 10:132, Court Actions and Procedures, by administrative change, effective January 3, 2017. As part of the recodification, attendant technical changes were made to the rule text concerning cross-references, agency names, addresses, etc.
See: 49 N.J.R. 98(a).

§ 3A:19-1.1 Scope; applicability and purpose

This chapter implements N.J.S.A. 30:4C-4.1 and 4.2 and provides the consent and approval of the Commissioner of the Department of Children and Families authorizing the Division of Child Protection and Permanency to commence or maintain actions in court.

§ 3A:19-1.2 Court actions by the Division

The Commissioner of the Department of Children and Families consents to the commencement and maintenance of all actions which the Division of Child Protection and Permanency is authorized by law to commence or maintain, including, but not limited to, all actions brought pursuant to N.J.S.A. 30:4C-1 et seq. and 9:6-1 et seq.

Title 3A, Chapter 20 -- Legal Guardianship

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 2A:4A-20 et seq., 2A:4A-37, 9:3A-7g, 9:3A-9, 30:1-14 and 15, and 30:4C-4(d).

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2016 d.046, effective April 18, 2016.

See: 47 N.J.R. 3094(a), 48 N.J.R. 103(a), 48 N.J.R. 803(a).

Chapter 20, Legal Guardianship, was recodified from N.J.A.C. 10:132A, Legal Guardianship, by administrative change, effective January 3, 2017. As part of the recodification, attendant technical changes were made to the rule text concerning cross-references, agency names, addresses, etc. See: 49 N.J.R. 98(a).

§ 3A:20-1.1 Purpose of N.J.A.C. 3A:20-1 and 2

The purpose of this subchapter and N.J.A.C. 3A:20-2 is to establish the DYFS Legal Guardianship Subsidy Program within the Division of Youth and Family Services. The program provides financial support and permanency to children placed by the Division with a relative or family friend who subsequently obtains kinship legal guardianship through the Kinship Legal Guardianship Act, N.J.S.A. 3B:12A-1 et seq.

§ 3A:20-1.2 Scope of N.J.A.C. 3A:20-1 and 2

The provisions of this subchapter and N.J.A.C. 3A:20-2 apply to each child whose participation in the DYFS Legal Guardianship Subsidy Program is approved or is being evaluated, each relative or family friend who agrees to participate or is being evaluated to participate in the program, each other household member, each parent of a child who participates or is being evaluated to participate in the program, and each Division representative.

§ 3A:20-1.3 Definitions

(a) The definitions in N.J.A.C. 3A:11-1.3, Definitions, are hereby incorporated into this chapter by reference.

(b) The following words and terms shall have the following meaning in this chapter and not the meaning defined in N.J.A.C. 3A:11-1.3:

1. "Agreement" means the form promulgated by the Division, which stipulates the responsibilities of kinship guardians and forms the contractual basis for participating in the CP&P Legal Guardianship Subsidy Program and receipt of benefits thereunder, which is made publicly available on the DCF internet site.

2. "Parent" means a person who is the mother or father of a child through birth or adoption.

3. "Relative" means any person, other than the child's parent, who is related to the child through blood, marriage, adoption, civil union, or domestic partnership and including a stepparent, or a "family friend," as defined in N.J.A.C. 3A:11-1.3.

(c) In addition, the following words and terms, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:

1. "Household member" means an adult or child who resides either full-time or part-time in the home of a relative who participates in the CP&P Legal Guardianship Subsidy Program.

2. "Placed by the Division" means a Division representative determined that a child could not remain in his or her own home, the Division had legal authority for removal of the child, and a Division representative physically located or arranged for the child to be placed in a relative's home.

3. "Program" means the CP&P Legal Guardianship Subsidy Program, as defined in N.J.A.C. 3A:11-1.3.

§ 3A:20-1.4 Service limitations

The availability of the program established by this chapter is subject to the continued availability of funding.

§ 3A:20-1.5 Responsibilities of a relative participating in the DYFS Legal Guardianship Subsidy Program

(a) A relative who agrees to participate in the program shall provide accurate information and submit documents the Division determines necessary to confirm eligibility and meet the program standards for the program in accordance with N.J.A.C. 3A:20-1.6 and 1.7.

(b) A relative approved for the program shall:

1. Provide accurate information and submit documents the Division determines necessary to confirm continued eligibility for the program in accordance with N.J.A.C. 3A:20-1.9;

2. Report to a Division representative any changes in circumstances, which may affect eligibility for the program, including a change in household composition, prior to the change if possible or immediately thereafter; and

3. Cooperate with the rules of the program contained in this chapter.

§ 3A:20-1.6 Eligibility for the CP&P Legal Guardianship Subsidy Program

(a) When the Division determines kinship legal guardianship as a permanent plan for the child, the Division representative advises a relative interested in the CP&P Legal Guardianship Subsidy Program of the requirements for eligibility and the circumstances that require termination of the program.

(b) A child is eligible for the CP&P Legal Guardianship Subsidy Program when:

1. A Division representative placed the child with a relative due to safety or risk of harm issues and the Division had legal authority for placement through a court order;

2. The relative is related to the child through blood, marriage, adoption, civil union, or domestic partnership or is a family friend as defined at N.J.A.C. 3A:11-1.3;

3. A Division representative made reasonable efforts when required to reunify the child and the parent;

4. The Division representative determines that the child cannot be returned to his or her parent and that adoption is neither likely nor feasible;

5. The relative or successor has obtained kinship legal guardianship, pursuant to the Kinship Legal Guardianship Act, N.J.S.A. 3B:12A-5; and

6. The relative's home meets the licensing standards for resource family homes articulated in N.J.A.C. 3A:51 for as long as the subsidy is paid.

(c) Upon the death or incapacitation of the relative with whom a child was placed under (b) above, a child remains eligible for the CP&P Legal Guardianship Subsidy Program if:

1. The child enters the care and custody of a successor guardian named in the initial agreement or an amendment made to that agreement executed prior to the death or incapacitation of the kinship legal guardian with whom the child was placed under (b) above.

2. No unreasonable time has elapsed and no person has had custody of the child between the death or incapacitation of the kinship legal guardian with whom the child was placed under (b) above and the assumption of care and custody by the successor guardian.

3. The successor guardian is licensed or provisionally licensed as a resource family provider at the time of the child's placement in his or her home, and that home continues to meet the licensing standards for resource family homes articulated in N.J.A.C. 3A:51, for as long as the subsidy is paid; and

4. Within reasonable time, not to exceed 540 days from the date that the successor guardian assumes care and custody of the child, the successor guardian petitions for kinship legal guardianship pursuant to the Kinship Legal Guardianship Act, N.J.S.A. 3B:121A-5.

(d) The agreement, and amendments to it, shall be executed using forms provided by the Division and in accordance with procedures provided for their use. No agreement, or amendment to it, shall be considered validly executed unless and until approved in writing by the Director or his or her designee.

§ 3A:20-1.7 License required

The Division requires a relative interested in being approved for the program to satisfy the requirements for licensure as a resource family parent in accordance with N.J.A.C. 3A:51.

§ 3A:20-1.8 Division action

(a) The Division representative shall approve the child and the relative for participation in the CP&P Legal Guardianship Subsidy Program if all eligibility requirements in N.J.A.C. 3A:20-1.6 and licensing standards for resource family parents in N.J.A.C. 3A:51 are met.

(b) The Division representative shall advise a relative of a child whose case goal is kinship legal guardianship who is not approved to participate in the CP&P Legal Guardianship Subsidy Program, in writing, of:

1. The reason for disapproval and any acceptable timely remedies of the reason for disapproval;

2. The opportunity for dispute resolution in accordance with N.J.A.C. 3A:5; and

3. Information regarding any agency that may be able to provide benefits for the child, such as the county welfare agency and the Office of the Kinship Navigator in the Division of Family Development.

§ 3A:20-1.9 Circumstances requiring redetermination

(a) Approval of the child continuing to participate in the CP&P Legal Guardianship Subsidy Program is re-determined:

1. Annually to confirm that the relative remains legally responsible for the child and the child's support and that the child's parent does not reside in the home, unless an exception has been previously granted by the DYFS Director or his or her designee; and

2. Whenever information becomes available to the Division representative that there has been a change in circumstances that may affect eligibility for the program in accordance with N.J.A.C. 3A:20-1.6 or that may indicate that the kinship guardian or successor guardian is no longer meeting the licensure requirements for resource parents specified in N.J.A.C. 3A:51.

§ 3A:20-1.10 Circumstances requiring termination

(a) The child's participation shall be terminated from the CP&P Legal Guardianship Subsidy Program when:

1. The child reaches age 18 or when the child is no longer continuously enrolled in a secondary education program, whichever event occurs later;

2. The legal guardian or successor guardian adopts the child;

3. The relative approved for the program no longer provides the child's support or the child no longer lives with that relative;

4. Each relative approved for the program is deceased and no successor guardian is specified in the initial agreement or amendment executed prior to each relative approved for the program being deceased; or

5. The court has vacated the kinship legal guardianship order.

§ 3A:20-1.11 Duration and amount of subsidy

(a) The agreement covering subsidy payments shall remain in effect regardless of family income until the child's 18th birthday. Subsidy payments will be terminated if the Division determines that the kinship legal guardian is no longer legally responsible for the child or the child is no longer receiving support from the kinship legal guardian.

(b) The amount of subsidy payments under this chapter shall be determined by the Director or designee, but shall not exceed 100 percent of the applicable resource care board rate. One-time, non-recurring expenses may be reimbursed in an amount not to exceed $ 2,000 if the Director or designee determines that such expenses were necessarily incurred in facilitation of the child's placement. Non-recurring expense reimbursement may not exceed $ 2,000 per placement.

(c) In the event of the death or incapacitation of the guardian, subsidy payments shall be transferred to a successor guardian named in the agreement or an amendment to the agreement in accordance with N.J.A.C.3A:20-1.6.

§ 3A:20-2.1 Types of services provided

(a) The DYFS Legal Guardianship Subsidy Program:

1. Provides a maintenance payment that equals the rate paid for a child in resource family care, excluding any specialized rates, for each child approved for participation in the program; and

2. Ensures that each child approved for participation in the program has health care coverage through the Division or other sources available to the child.

(b) The program provides no maintenance payment or health care coverage for any time prior to the date of the award of kinship legal guardianship through the Kinship Legal Guardianship Act at N.J.S.A. 3B:12A-5.

(c) The Division shall renegotiate the amount of the maintenance payment to a maximum of $ 250.00 per month for up to one year when:

1. A child in the program is living in a treatment facility;

2. The plan is to return the child to the relative at the conclusion of the treatment; and

3. The relative is actively participating in the child's treatment plan.

(d) The program does not provide placement-related activities, administrative activities or services other than those stated in (a) above from the Division. A child participating in the DYFS Legal Guardianship Subsidy Program is not subject to the placement review requirements of N.J.S.A. 30:4C-50 et seq. and N.J.A.C. 3A:13-3.

(e) These rules shall not be construed to negate a child's right to receive child protective services and child welfare services from the Division, as necessary to ensure the child's health and safety, based upon the Division representative's assessment of the needs of the child.

§ 3A:20-3.1 Purpose

The purpose of this subchapter is to state the Division's responsibilities pursuant to the Kinship Legal Guardianship Act, N.J.S.A. 3B:12A-1 et seq. and 30:4C-84 et seq.

§ 3A:20-3.2 Scope

The provisions of this subchapter apply to each Division representative responsible for the activities described in this subchapter.

§ 3A:20-3.3 Kinship caregiver assessment done by the Division

(a) The Division shall provide the court with a kinship caregiver assessment pursuant to the Kinship Legal Guardianship Act at N.J.S.A. 30:4C-85, when a relative is seeking kinship legal guardianship for a child:

1. Who was removed from the child's home by a Division representative at least 12 months prior to the date the kinship caregiver assessment is requested;

2. Who has an open or currently active case with the Division and where legal representation is being provided by the Office of the Public Defender either through its Law Guardian Program or Parental Representation Unit; or

3. Who has an otherwise open or currently active case with the Division or, if the child is being placed with a successor guardian, who previously had an open case with the Division that was closed upon placement with a kinship caregiver now deceased or incapacitated.

(b) The Division representative shall complete a kinship caregiver assessment and assist a relative with an open or currently active case with the Division to petition the court for kinship legal guardianship when:

1. No Division representative placed the child with the relative; and

2. The Division representative determines that the child cannot be returned to his or her parent and that adoption is neither likely nor feasible.

(c) The provisions of (a) and (b) above shall not apply when the Division is actively investigating a child protective service referral.

(d) A Division representative shall conduct the kinship caregiver assessment at no cost to the relative seeking kinship legal guardianship.

§ 3A:20-3.4 Information provided to a designated agency and the court

(a) A Division representative shall provide the agency designated to complete the kinship caregiver assessment pursuant to N.J.S.A. 30:4C-85b with information regarding any current involvement of the Division when the Division is not providing the kinship caregiver assessment in accordance with N.J.A.C. 3A:20-3.3.

(b) A Division representative shall provide the court with the results of a child abuse record information check and a domestic violence check for the relative seeking kinship legal guardianship and each adult household member when the Division is not providing the kinship caregiver assessment in accordance with N.J.A.C. 3A:20-3.3.

(c) Division staff shall conduct the child abuse record information check and domestic violence check at no cost to the relative seeking kinship legal guardianship.

§ 3A:20-3.5 The Division's responsibility when the court is considering whether to vacate a kinship legal guardianship order

(a) The Division representative prepares a parenting assessment of a child's parent when the court is determining whether the kinship legal guardianship order should be vacated and the child returned to his or her parent and one of the following occurs:

1. The court requests the parenting assessment because the Division was originally involved in petitioning the court to grant kinship legal guardianship in accordance with N.J.A.C. 3A:20-3.3(a) and (b); or

2. There is prima facie evidence to support vacating the kinship legal guardianship order and the Division wants to take a position on the parent's motion to vacate the kinship legal guardianship order.

(b) The Division determines whether to take a position on the motion after evaluating the factors listed in N.J.A.C. 3A:20-3.6.

(c) When preparing a parenting assessment, the Division representative shall review the Division's computerized records. If further information is needed, the Division representative shall review the child's and the guardian's case files. If the Division representative finds it necessary, a Division representative may conduct a home visit or obtain an evaluation of the parent undertaken by a consultant.

(d) If the Division prepares a parenting assessment, the Division representative shall include information about whether the parent's incapacity and inability to care for and support the child have been remediated.

§ 3A:20-3.6 Factors to consider regarding motions to vacate kinship legal guardianship orders

(a) The Division shall consider the following factors related to the child's safety when determining whether to take a position on a motion to vacate a kinship legal guardianship order:

1. The child's age;

2. The duration of the Division's involvement with the child, prior to the granting of kinship legal guardianship;

3. The total length of time the child was in out-of-home placement;

4. The length of time the child has lived with the guardian, prior to and after the granting of kinship legal guardianship;

5. When kinship legal guardianship was granted;

6. What the original harm or risk of harm to the child was;

7. The parent's present fitness to care for the child;

8. Any subsequent allegations of abuse or neglect received by the Division and their findings; and

9. What plan is proposed for the child if the guardianship is vacated.

Title 3A, Chapter 21 -- Termination of Parental Rights

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 30:4C-1 et seq., and 30:4C-15 through 23.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2016 d.006, effective December 11, 2015.

See: 47 N.J.R. 1862(a), 48 N.J.R. 138(a).

Chapter 21, Termination of Parental Rights, was recodified from N.J.A.C. 10:133J, Termination of Parental Rights, by administrative change, effective January 3, 2017. As part of the recodification, attendant technical changes were made to the rule text concerning cross-references, agency names, addresses, etc. See: 49 N.J.R. 98(a).

§ 3A:21-1.1 Purpose

(a) The purpose of this chapter is to state:

1. The circumstances under which the Division is required to file or join a petition to terminate parental rights and the exceptions to filing; and

2. The procedures for a parent to surrender parental rights for the purpose of allowing a child to be adopted.

§ 3A:21-1.2 Scope

The provisions of this chapter shall apply to all Division representatives and clients receiving services from the Division.

§ 3A:21-1.3 Definitions

(a) The definitions in N.J.A.C. 3A:11-1.3 are incorporated in this chapter by reference.

§ 3A:21-2.1 Involuntary termination of parental rights

(a) The Division shall file or join a petition to terminate the parental rights of a child's parents when one or more of the circumstances stated in N.J.S.A. 30:4C-15 is established, but no later than when the child has been in out-of-home placement for 15 of the most recent 22 months, unless the Division has established an exception to the requirement to seek termination of parental rights pursuant to N.J.S.A. 30:4C-15.3.

(b) The Division representative consults with the Deputy Attorney General on situations that may meet the standards stated in N.J.S.A. 30:4C-15 and 15.1.

(c) The Division representative shall advise each parent whose whereabouts are known to the Division and whose parental rights the Division is seeking to involuntarily terminate, that the parent has the right to a trial and to be represented by legal counsel at any involuntary termination of parental rights court proceeding; and, if the parent is unable to afford an attorney, the right of the parent to ask the court to assign an attorney to represent the parent.

(d) When the Division representative makes a determination to pursue termination of parental rights in accordance with N.J.S.A. 30:4C-15 and 15.1, the Division representative shall consider offering the parent an opportunity to surrender his or her parental rights pursuant to N.J.S.A. 30:4C-23. When a parent is offered an opportunity to surrender parental rights, the Division representative shall advise the parent that if the Division pursues legal action to involuntarily terminate parental rights, the parent has those legal rights stated in (c) above.

§ 3A:21-2.2 Exceptions to termination of parental rights criteria

(a) Whereas adoption is the preferred permanency alternative for a child who cannot safely return to the care of either biological parent, the Division may decide not to file for termination of parental rights when adoption of the child is neither feasible nor likely.

(b) The Division representative is not required to file for termination of parental rights if the case circumstances meet at least one of the following three exceptions set forth in N.J.S.A. 30:4C-15.3:

1. The child is being cared for by a relative and a permanent plan for the child can be achieved without termination of parental rights;

2. The Division representative has documented in the case plan, which shall be available for court review, a compelling reason for determining that filing the petition would not be in the best interests of the child; or

3. The Division representative is required to provide reasonable efforts to reunify the family but the Division representative has not provided to the family of the child, consistent with the time period in the case plan, such services as the Division representative deems necessary for the safe return of the child to his or her home.

(c) The Division representative shall document in the case plan the details of the case circumstances meeting the requirements for an exception in (a) or (b) above. The documentation shall include the reasons why adoption is neither feasible nor likely for this child, and is not the most appropriate case goal for this child when the exception is made pursuant to N.J.S.A. 30:4C-15.3b.

§ 3A:21-2.3 Factors to consider when filing for termination of parental rights

(a) The Division representative considers many factors when deciding to file for termination of parental rights or to document a compelling reason in the best interests of the child not to file for a termination of parental rights. Decisions must be made on a case-by-case basis, based on the individual circumstances of the child and the family. The factors considered may include, but are not limited to:

1. The child's age;

2. The child's level of maturity;

3. The child's developmental level and needs;

4. The child's opinion regarding the permanent plan;

5. The placement history, including the length of time the child has been in placement;

6. The progress that each parent has made toward return of his or her child;

7. The relationship between this child and his or her parents;

8. The child's relationship to siblings, if any;

9. The case goal for each of the child's siblings, if any;

10. Expert opinions in respect to permanency planning for the child;

11. The opinions of child advocates in respect to permanency planning for the child;

12. The appropriateness and feasibility of all the various permanency options for this child;

13. The out-of-home placement provider's commitment to the child and commitment and capacity to meet the child's needs currently and in the future;

14. The relationship between the child and the out-of-home placement provider and the out-of-home placement provider's family;

15. The potential permanent caregiver's ability and willingness to assure safety, permanency, and well-being for the child; and

16. Each parent's role in potential permanency plans for this child.

§ 3A:21-3.1 Division responsibilities

(a) The Division representative shall counsel the parent regarding the meaning, finality and consequences of surrendering parental rights in accordance with N.J.A.C. 3A:50-5.4 when surrendering parental rights is being considered. For all cases in litigation, surrenders of parental rights must go through appropriate court proceedings.

(b) The Division representative shall advise the parent that he or she may stop the surrender of parental rights at any point in the procedure.

(c) The Division is not obligated to accept a surrender of parental rights from a parent.

(d) The Division representative shall determine that the parent is competent to execute a surrender and has a full opportunity to understand the meaning and consequences of surrendering parental rights by:

1. Questioning and observing the parent and reviewing evaluations, professional opinions or reports, as necessary, to determine that there are no obvious or overt indicators that the parent has a diminished capacity to understand the meaning, consequences and finality of surrendering parental rights because of alcohol or drug use, psychological disorder or mental deficiency;

2. Reading aloud to the parent the full contents of surrender of parental rights documents;

3. Providing a verbal explanation to the parent of the contents of the surrender of parental rights documents including an explanation of the meaning, consequences and finality of the act of surrendering parental rights;

4. Providing an opportunity for the parent to ask questions about surrendering parental rights; and

5. Asking the parent to explain, in his or her own words, the meaning, consequences and finality of surrendering parental rights.

(e) The Division representative shall make documents related to surrendering parental rights available in a language, which the parent understands, or the Division shall provide competent verbal or sign translation of the surrender of parental rights procedure into a language, which the parent understands.

(f) The Division representative shall attempt to determine, through questions and observation, any duress, undue pressure or coercion which has been brought to bear on the parent in order to induce him or her to surrender parental rights.

1. The Division representative shall not coerce the parent in order to induce him or her to surrender parental rights; and

2. The Division representative shall attempt to ascertain the cause of any duress, undue pressure or coercion on the parent and counsel the parent regarding services to help the parent cope with the duress.

(g) The surrender of parental rights shall be witnessed by at least one Division representative who is not assigned to the case, who is 18 years of age or older and who is not notarizing the signature.

(h) The witness shall make a determination, to the best of his or her ability, that:

1. The parent understands the meaning, consequences and finality of surrendering parental rights;

2. The parent is competent to surrender parental rights; and

3. The Division representative attempted to determine and mitigate any duress on the parent in accordance with (f) above and that the parent is surrendering parental rights of his or her own free will.

(i) The witness shall sign an affidavit regarding his or her role and observations in the surrender of parental rights.

(j) Unless the person is disruptive to the procedure or is a source of duress on the parent, the parent may have a friend, relative or representative present at the surrender of parental rights procedure. The friend, relative or representative may sign an affidavit regarding his or her role and observations during the surrender of parental rights but shall not be the witness to the procedure identified in (g) above.

(k) The Division representative or the witness shall stop any procedure regarding the surrender of parental rights if the parent appears to be under duress or incompetent to surrender parental rights in accordance with (d) or (f) above.

§ 3A:21-3.2 Additional procedures

(a) The Division representative shall give the parent a copy of all documents signed by the parent and those documents read to the parent during the surrender of parental rights procedure.

(b) The Division representative shall document the surrender of parental rights for the child's case record including the questions asked by the parent along with the answers provided by the Division representative or by any witness present.

(c) The Division representative shall obtain, to the extent possible and necessary, each birth certificate, marriage or civil union certificate, domestic partnership affidavit, divorce or dissolution of a civil union or domestic partnership decree, death certificate, affidavit and document related to the surrender of parental rights.

(d) The Division representative shall advise the parent of the Division's Adoption Registry, the document of contact preference which may be submitted to the State Registrar of Vital Statistics pursuant to N.J.S.A. 26:8-40.34, and of any laws or procedures regarding the confidentiality of records related to surrender of parental rights or adoption, including, but not limited to, N.J.S.A. 9:3-52 and 26:8-40.1.

§ 3A:21-3.3 Surrender executed in other states and other countries

Pursuant to N.J.S.A. 9:3-41, the Division shall give full faith and credit to a surrender of parental rights executed in any other state or foreign country if the procedures for the surrender of parental rights complied with that state's or country's applicable statutes and regulations, and was taken more than 72 hours after the birth of the child.

§ 3A:21-4 (Reserved)

Title 3A, Chapter 22 -- Requirements for CP&P Adoptions

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 9:3-37 et seq., 9:6B-4, and 30:4C-4(h); and 42 U.S.C. §§ 622(b).

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2014 d.046, effective February 14, 2014.

See: 45 N.J.R. 2171(a), 46 N.J.R. 541(c).

Chapter 22, Requirements for CP&P Adoptions, was recodified from N.J.A.C. 10:121C, Requirements for CP&P Adoptions, by administrative change, effective January 3, 2017. As part of the recodification, attendant technical changes were made to the rule text concerning cross-references, agency names, addresses, etc. See: 49 N.J.R. 98(a).

§ 3A:22-1.1 Purpose

(a) The purpose of this chapter is to specify the process used by the Division to assure that each child who is under the supervision of the Division with a case goal of adoption is adopted.

(b) This chapter describes the following actions or circumstances necessary to complete the adoption process:

1. The recruitment program for adoptive homes for each child who is in need of an adoptive placement;

2. The conditions under which the Division accepts applications from persons seeking to become adoptive parents;

3. The Division's process for the study of adoptive applicants for the adoptive placement of children, in accordance with N.J.A.C. 3A:50-5.6, Home study services;

4. The Division's adoptive home selection and placement processes;

5. The Division's activities from the time a child is placed with an adoptive parent through the adoption finalization;

6. The post-adoption services available through the Division; and

7. The adoption registry services available through the Division.

§ 3A:22-1.2 Scope

(a) The provisions of this chapter shall apply to:

1. The Division;

2. Each person who applies to the Division to be an adoptive parent;

3. Each person who is licensed by the Office of Licensing as a resource parent with an interest in adopting;

4. Each person who adopts a child through the Division;

5. Each birth parent whose child's adoption is processed by the Division;

6. Each child placed in an adoptive home and supervised by the Division;

7. Each adoption agency seeking an adoptive home from the Division for a special needs child;

8. Each private and public agency that may recruit adoptive homes for the Division; and

9. Each adult adoptee who may use the Division's adoption registry services.

§ 3A:22-1.3 Definitions

The following words and terms used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Adoption registry services" means services to an adult adoptee to find a member of his or her birth family; services to an adoptive parent of a minor adoptee to assist him or her in securing medical information or in dealing with identity issues related to adoption; or services to a birth family member who has a desire or need for knowledge of or contact with a child who was placed for adoption.

"Adoptive applicant" means a person who has applied to the Division to adopt a child.

"Adoptive parent" means a person with whom a child has been placed by the Division for adoption or who has adopted a child.

"Adoptive placement" means the placement of a child in an adoptive home by the Division for the purpose of adoption. For foster home adoptions, the adoptive placement begins on the date the Division consent for adoption is signed by the local office manager. For a selected adoptive home placement, the adoptive placement begins on the date the child is placed in the home.

"Adult adoptee" means an individual 18 years of age or older whose adoptive placement was made by the Division or its predecessor agencies, that is, the Bureau of Children's Services, the State Board of Child Welfare or the State Board of Children's Guardians.

"Birth family member" means a person, or a relative of a person, whose child was placed for adoption through the Division or its predecessor agencies.

"Child" means any person under 18 years of age.

"Child-specific recruitment" means seeking a select adoptive parent for a particular child.

"Department" means the New Jersey Department of Children and Families.

"Division" means the Division of Child Protection and Permanency in the Department of Children and Families.

"Finalization" means the entry of a legal order of adoption issued by a court of competent jurisdiction, pursuant to N.J.S.A. 9:3-38 et seq.

"General recruitment" means attending community events or distributing literature to raise community awareness of the general needs for adoptive parents or resource families willing to parent a child with special needs.

"Home study" means the Division's formal assessment of the capacity and readiness of prospective adoptive parents to adopt a child, including the Division's written report and recommendation.

"Licensed adoptive applicant" means a person who is a resource family parent licensed in accordance with N.J.A.C. 3A:51 or a person who has been approved as an out-of-State adoptive parent.

"Office of Licensing" means the Office of Licensing in the New Jersey Department of Children and Families.

"Post-adoption services" means all services, other than adoption registry services, offered by or through the auspices of the Department of Children and Families to any party involved in an adoption after finalization of the adoption.

"Post-placement services" means any and all services offered by or through the auspices of the Division to any member of an adoptive family from the time of the placement of the child for foster or adoptive purposes by the Division to the time of finalization of the adoption.

"Recruitment" means enhancing public awareness of issues related to adoption through the use of public service announcements, social events, newspaper series, videos, educational displays, public speaking engagements and the dissemination of literature for the purpose of developing new adoptive homes for special needs children.

"Resource family parent" means a person who is licensed by the Office of Licensing in accordance with N.J.A.C. 3A:51 to provide resource family care, including a person who is licensed to have a child or children placed with him or her for the purpose of adoption.

"Selected adoptive home" means a licensed or approved (if out-of-State) adoptive applicant who provides or wants to provide an adoptive home to a child who does not reside with the licensed adoptive applicant as a foster child.

"Special needs child" means any child as specified in N.J.A.C. 3A:23-1.2, who the State of New Jersey or a private adoption agency licensed to operate in New Jersey has the legal right to place for adoption, but who is reasonably expected to be hard to place due to difficulty in finding a prospective adoptive home for a special needs child.

"Targeted recruitment" means focusing on adoptive parents for particular groups of special needs children, such as adolescents or children with emotional or physical problems.

§ 3A:22-1.4 Application of rules

(a) The rules contained in N.J.A.C. 3A:50, Manual of Requirements for Adoption Agencies, shall apply to each local office of the Division of Child Protection and Permanency.

(b) Each rule contained in this chapter shall apply only to the adoption operations of the Division of Child Protection and Permanency.

§ 3A:22-1.5 Service limitations

(a) The Department shall provide needed services within the limits of legislative appropriations to all eligible children, their adoptive families, and their birth families in similar circumstances. The provision of services shall also be subject to limitations due to actual ability of the Department to provide such services directly or by purchasing such services from appropriate, certified, privately sponsored agencies or institutions.

(b) The demand for social services frequently exceeds the funds available to provide them. Therefore, in accordance with N.J.S.A. 30:4C-13, the Division Director may establish Division-wide service limitations based upon the need to focus finite resources to serve those individuals most in need. Service limitations shall be published within 90 days of imposition in the Public Notices section of the New Jersey Register.

§ 3A:22-2.1 Confidentiality

(a) Recruitment of adoptive families for children shall be conducted in such a way as to protect client confidentiality in accordance with N.J.A.C. 3A:3, Client Information.

(b) The Division representative shall provide non-identifying information on the child in need of adoptive placement to any licensed adoptive applicant who is recruited or indicates an interest in taking the child, in order for the licensed adoptive applicant to make an informed decision regarding his or her ability to adopt the child.

§ 3A:22-2.2 Community partnerships

(a) The Division shall develop partnerships with private and public agencies in the community, corporations, community leaders and child and family advocacy groups for the purpose of recruiting adoptive homes.

(b) The Division shall design and implement its recruitment program, which may include child-specific, targeted, or general recruitment, for children waiting for adoptive homes.

(c) Division representatives shall recruit, retain, and support resource family parents in New Jersey, when assigned.

§ 3A:22-2.3 Utilizing contract agencies

(a) The Division may contract with agencies to recruit adoptive homes for special needs children.

(b) The contract agency shall be subject to the provisions of N.J.A.C. 3A:22-2.1, Confidentiality.

§ 3A:22-2.4 State and national exchange registration

(a) When selecting an adoptive home for a child, the Division representative shall:

1. Seek a licensed adoptive applicant from the Division's pool of licensed resource parents; and

2. Register the child on adoption resource exchanges unless an appropriate licensed adoptive applicant is currently under consideration to accept a child for adoption.

(b) The Division shall maintain the New Jersey Adoption Resource Exchange, which includes a Statewide listing of every special needs child legally free for adoption for whom an adoptive home is not readily available. The listing shall include a profile of each waiting child, in a manner deemed appropriate, and which may include a description of any special needs.

(c) The Division shall make copies of the list of waiting children with special needs or other such lists available upon request.

§ 3A:22-2.5 Recruitment types

(a) The Division representative shall utilize one or more of the following recruitment types:

1. Child-specific recruitment;

2. Targeted recruitment; or

3. General recruitment.

(b) A Division representative seeking to recruit an adoptive applicant to accept permanent placement of a child shall first use child-specific recruitment. The Division representative shall approach the child's relatives, family friends and other significant people in the child's life in order to assess their interest in being an adoptive parent for the child.

(c) A Division representative shall use targeted recruitment to focus on adoptive parents for particular groups of special needs children, such as adolescents or children with emotional problems. Specific communities may be targeted for radio, television and print announcements for particular groups.

(d) A Division representative shall use general recruitment to target community awareness of the general need for adoptive parents who are willing to parent a special needs child.

(e) Recruitment methods may include, but are not limited to:

1. The New Jersey Adoption Resource Exchange and the National Adoption Exchange;

2. Internet;

3. Videos;

4. Pictures;

5. Public service announcements;

6. Social events;

7. Television recruitment;

8. Newspaper series;

9. Newsletters;

10. Public speaking engagements;

11. Dissemination of literature; and

12. Community displays.

(f) Recruitment methods which publicize a specific child may be used only for a child who is legally free for adoption.

(g) A child's pictures and videos used for recruitment purposes shall be no more than a year old.

§ 3A:22-2.6 Non-discrimination

(a) The Division shall allow any adult to apply to be an adoptive parent regardless of age, race, color, national origin, disability, gender, religion, sexual orientation, or marital status.

(b) In compliance with the Multiethnic Placement Act of 1994, 42 U.S.C. § 622, as amended by the Interethnic Adoption Provisions of 1996, the Division shall provide for the diligent recruitment of potential adoptive families that reflect the ethnic and racial diversity of children in the State for whom adoptive homes are needed.

§ 3A:22-2.7 (Reserved)

§ 3A:22-3.1 Adoptive applicant

(a) The Division shall accept an application from, and provide home study services to, an adult New Jersey resident interested in becoming an adoptive parent, only if the adult is interested in adopting a special needs child.

(b) The Division shall conduct a home study of an adoptive applicant in accordance with N.J.A.C. 3A:50-5.6, Home study services.

(c) The Office of Licensing shall issue or deny a license based on the assessment process in accordance with N.J.A.C. 3A:50-5.6, Home study services, and N.J.A.C. 3A:51, Manual of Requirements for Resource Family Parents.

§ 3A:22-3.2 Release of home studies

The Division shall release its completed home study to the licensed adoptive applicant or adoptive parent, upon written request signed by each adoptive applicant or adoptive parent. The Division shall redact third party information prior to release of the home study.

§ 3A:22-4.1 Criteria for adoptive home selection

(a) When a child's case goal becomes adoption and the child is in need of a selected adoptive home, the Division shall initiate efforts to identify or recruit an adoptive applicant or licensed adoptive applicant. Each licensed adoptive applicant shall meet his or her own state's requirements to adopt a child.

(b) The Division shall make an informed, objective judgment based on a full and careful assessment of each factor which may affect the child's ability to benefit physically, socially and emotionally from the adoptive placement, in particular, and the community in general.

(c) The Division shall not discriminate in a child's adoptive placement based on the child's or the adoptive parent's race, color, national origin, age, gender, disability, marital status, sexual orientation, state of residence, or religion. This subsection shall not preclude the Division from adhering to the Indian Child Welfare Act of 1978 (ICWA), 25 U.S.C. § 1911. The Division shall not delay or deny the adoptive placement of a child due to the race, color, or national origin of either the child or the adoptive parent. These factors may be considered in selecting the licensed adoptive applicant for only the most compelling reasons related to a particular child's special or distinctive needs. The Division representative shall document when the race, color, or national origin of either the child or licensed adoptive applicant is considered in making the adoptive home selection and how these factors affected the selection. The documentation shall include any professional reports, such as therapists' reports, used in making the decision.

§ 3A:22-4.2 Placement of the child with the adoptive parent

The placement of the child in a selected adoptive home shall be in accordance with N.J.A.C. 3A:50-5.7, Placement services.

§ 3A:22-5.1 Post-placement services

(a) A Division representative shall provide post-placement services to the adoptive child and the adoptive family in accordance with N.J.A.C. 3A:50-5.8.

(b) In addition, a Division representative shall have face-to-face and other communication with the adoptive child and the adoptive family in order to:

1. Establish a relationship between a Division representative and each family member to provide support, to assist with issues relevant to the adoption as they arise and to help each family member through the adjustment process;

2. Assess the adoptive family's need for counseling services which specifically address adoption-related issues;

3. Refer the adoptive family to medical, therapeutic, educational, self-help and other services as they are needed;

4. Assist the adoptive family to function autonomously and without Division intervention; and

5. Assess the adoptive family's readiness and suitability in order to recommend proceeding towards adoption finalization.

§ 3A:22-5.2 Division activities related to finalization

(a) In addition to the requirements in N.J.A.C. 3A:50-5.8, prior to finalization, a Division representative shall:

1. Supervise the adoptive placement for a minimum of six months and document each contact in the case record;

2. Explain the legal process of adoption finalization;

3. Advise the adoptive parent that post-placement services provided by a Division representative shall be terminated as of the date of the adoption finalization;

4. Obtain from the adoptive parent the name of the attorney who will file the adoption papers on his or her behalf;

5. Send a signed copy of the Consent of Guardian or Consent of Custodian to Adoption to the adoptive parent's attorney to be forwarded to the court; and

6. Prepare and send a court report for final hearing to the court upon notification of a court date for the adoption finalization by the adoptive parent's attorney.

(b) A Division representative may attend the final hearing.

§ 3A:22-6.1 Post-adoption services available

(a) The Division shall provide the opportunity for an adoptive parent to request post-adoption services from the Division.

(b) The type and duration of post-adoptive services shall be determined by the Department or contract agency based on an individual case assessment.

§ 3A:22-6.2 Adoption registry services available

(a) The Division shall provide adoption registry services to the adult adoptee, birth family member or adoptive parent on behalf of his or her minor child when requested which include:

1. Providing non-identifying background information, including birth history, social history and family health history, to the birth parent, the adult adoptee or adoptive parent on behalf of the minor adoptee in accordance with N.J.A.C. 3A:50-5.9(b)2;

2. Search services to locate the birth family at the request of the adult adoptee or at the request of the adoptive parent on behalf of the minor adoptee in accordance with the provisions of N.J.A.C. 3A:50-5.10. Search services are not available from the Division to a birth family member seeking to locate the child who was placed for adoption; and

3. Registration of a birth family member's name and address to enable the Division to reunite him or her with the adult adoptee if the adult adoptee or adoptive parent on behalf of the minor adoptee requests a reunion.

§ 3A:22-6.3 Person's identity verified

The Division shall provide adoption registry services only after the identity of the person making the request is verified.

Title 3A, Chapter 22, Subchapter 7. (Reserved)

§ 3A:22-7.1 (Reserved)

§ 3A:22-7.2 (Reserved)

Title 3A, Chapter 23 -- Adoptions

Readoption with Amendments: N.J.A.C. 3A:23

Adopted May 14, 2019

Effective Dates: May 23, 2019, Readoption;

June 17, 2019, Amendments.

Expiration Date: May 23, 2026

Authority: N.J.S.A. 9:3-54.1, 9:3A:7.f, 30:4C-4(h), and 30:4C-49.

§ 3A:23-1.1 Definitions

The following words and terms used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Adoption subsidy" means payments for the care and maintenance of a child with special needs.

"Board rate" means the rate paid to the resource family for the child at the time of finalization or that which would have been paid for the child if the child was in placement.

"Child" means any person under the age of 18 or approved for continued adoption subsidy up to the maximum age of 21.

"Child with special needs" means any child who the State of New Jersey or a private adoption agency licensed to operate in New Jersey has the legal right to place for adoption, but who is reasonably expected to be hard to place (due to a difficulty in finding a prospective adoptive home) as specified in N.J.A.C. 3A:23-1.2.

"CP&P Director" means the Director of the Division of Child Protection and Permanency in the Department of Children and Families.

"Department" means the New Jersey Department of Children and Families.

"Resource family parent" means a person who has received a resource family parent license from the State of New Jersey in order to provide foster, adoptive, or kinship care.

§ 3A:23-1.2 Determining that a child is a child with special needs

(a) A child is a child with special needs, subject to the limitations in (b) and (c) below, if the CP&P Director or designee determines that the adoptive placement of that child is significantly burdened or prevented as a result of:

1. The child's having a serious medical condition that will require repeated or frequent hospitalization or treatment;

2. The child's living with any physical disability, by reason of physical defect or deformity, whether congenital or acquired by accident, injury, or disease, which makes or may be expected to make a child totally or partially incapacitated for education or for remunerative occupation;

3. The child's living with any substantial disability, such as the loss or deformation of facial features, torso, or extremities;

4. The child's having a diagnosed emotional, mental health, or behavioral problem, psychiatric disorder, serious intellectual incapacity, or brain damage that seriously affects the child's ability to relate to his or her peers or authority figures, including, but not limited to, a developmental disability;

5. The child is one of a group of three or more siblings (including half-siblings) and the siblings are placed together, or the child is one of two siblings (including half-siblings) one of whom meets the special needs criteria, and it is considered most appropriate that the children be placed together;

6. The child is 10 years old or older;

7. The child belonging to an ethnic or minority group for whom adoptive homes are not readily available, subject to the limitations in (c) below. Information regarding availability of homes may be obtained from the Department;

8. The child's having suffered child abuse or neglect that resulted in out-of-home placement by the Division;

9. The child's meeting the medical or disability requirements for Supplemental Security Income pursuant to 42 U.S.C. § 673(c); or

10. Any other condition of a specific child that may be approved by the CP&P Director or designee.

(b) A child shall not be considered a child with special needs unless the CP&P Director or designee determines that a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption subsidy. Private adoption agencies shall bear the burden of demonstrating to the satisfaction of the CP&P Director or designee that a child placed by that adoption agency could not be placed with appropriate adoptive parents without adoption subsidy.

1. A child placed in an adoptive home prior to the Department being notified of a need for adoption subsidy shall be presumed to have been placed without the need for such assistance unless compelling evidence to the contrary is provided.

2. This subsection shall not apply to a child determined to meet the medical and disability requirements to be eligible for Supplemental Security Income under 42 U.S.C. § 673(c).

(c) The determination that homes are not readily available for a minority or ethnic group or for members of a minority or ethnic group within a specific age range shall be made by the CP&P Director or designee and subject to continuous reevaluation based on the fluctuating availability of adoptive homes.

§ 3A:23-1.3 Payments for the care and maintenance of a child with special needs (adoption subsidy)

(a) The Department shall make payments for the care and maintenance of a child with special needs to the person(s) with whom the child has been placed for adoption or by whom the child has been adopted when such payments are applied for prior to adoption according to such forms and procedures as may be established by the Department. The Department shall make adoption subsidy payments only to a person who, at the time the adoption is finalized, is a licensed resource family parent in accordance with N.J.A.C. 3A:51, to a person who has been approved as an out-of-State adoptive parent, or to an adoptive parent who received a subsidy-eligible child, not under Department supervision, but through a private adoption agency licensed to operate within New Jersey.

(b) The Department shall determine and approve the qualifications for subsidy payments prior to the completion of an adoption proceeding. In order to qualify for subsidy, a child must meet at least one criterion for a child with special needs listed in N.J.A.C. 3A:23-1.2(a). The failure of the Department to complete its determination and approval of qualification prior to the finalization of adoption shall not prevent qualification for adoption subsidy, if application for such subsidy was made in a timely manner. The Department shall issue an annual notice to each adoptive parent receiving adoption subsidy for an adopted child, affirming the adoptive parent's legal responsibility and that there has been no change in requirements, as described in N.J.A.C. 3A:23-1.4(a).

1. An adoptive family may re-apply for adoption subsidy on behalf of a child who was placed by the Department and initially found ineligible for the subsidy benefit. The adoptive family may apply for adoption subsidy at any time after finalization, if the child develops problems traceable to either his or her genetic heritage or pre-adoptive experiences and that may qualify him or her for adoption subsidy.

(c) No payments shall be made for any child who the Department has determined was brought into the State of New Jersey for the sole purpose of qualifying for adoption subsidy.

(d) In addition to meeting the requirements as set forth in (a) through (c) above, payments pursuant to this section shall be made on behalf of a child only in one of the following circumstances:

1. A child is placed for adoption by the Department;

2. A New Jersey child is placed with a New Jersey family by an agency approved to provide adoption services in New Jersey;

3. A New Jersey child who is not Title IV-E eligible or Supplemental Security Income eligible is placed in any state other than New Jersey by an agency approved to provide adoption services in New Jersey;

4. A New Jersey child in placement who appears to be potentially eligible for Supplemental Security Income, but that determination has not yet been made, is placed in any state other than New Jersey by an agency approved to provide adoption services in New Jersey. Subsidy will be terminated if the child is determined to be Supplemental Security Income eligible and the family will be instructed to seek subsidy from its state of residence; or

5. A non-New Jersey child who is Title IV-E or Supplemental Security Income eligible prior to adoption finalization is placed with a New Jersey family by a private agency located anywhere in the country that is approved to provide adoption services.

(e) Subsidy payments for children in private agency adoptions shall be effective as of the date the Department receives the application for adoption subsidy from the private agency or when the child is placed, whichever occurs later. A determination as to the child's eligibility to receive subsidy may be made by the Department. However, such determination shall be made prior to the child's adoptive placement. The Department is responsible for monitoring the adoption subsidy to the adoptive parent. The Department may approve adoption subsidy payments for a child without legal transfer of care or custody of the child to the Department.

(f) Payments shall be made only pursuant to a written Adoption Assistance Agreement between the Department and the adoptive parent(s), which shall include:

1. The date on which the agreement is entered and the stipulation that the agreement shall remain in effect regardless of the state in which the adoptive parent(s) reside at any given time;

2. The first name and birthdate of the child for whom the payment is to be made;

3. The condition(s) of the child, which make him or her a child with special needs;

4. The needs of the child being adopted;

5. The amount of adoption subsidy to be paid;

6. The additional assistance or services to be provided by the State, and how the costs for these items are to be met;

7. Provisions for the protection of the interest of the child in cases where the adoptive parent(s) and child move to another state while the agreement is effective;

8. How the adoptive parent(s) shall notify the Department of changes in the needs of the child or circumstances of the adoptive family that would affect the eligibility for, or amount of, adoption subsidy, including complying with the annual notice for subsidy of the adoptive parent's legal responsibility to support the child;

9. How adoptive parent(s) shall be notified of any changes in the amount of adoption subsidy and how they may request changes in the adoption assistance agreement;

10. Payments for non-recurring adoption expenses;

11. Annual verification that each child six years of age or older is enrolled in school or medical verification that the child is medically unable to attend school; and

12. Such other provisions as the Department may require.

(g) A Department representative shall make a reasonable effort to place the child in an adoptive setting without providing a subsidy, unless doing so is against the best interest of the child, including, but not limited to, situations involving adoption by a child's resource family parent or where the Department determines that such efforts should not be made because of the special needs of the child or the special qualifications of the adoptive parents.

§ 3A:23-1.4 Duration and amount of adoption subsidy

(a) The written agreement covering subsidy payments shall remain in effect regardless of family income until the child's 18th birthday. Subsidy payments will be terminated if the Department determines that the parents are no longer legally responsible for the child or the child is no longer receiving support from those parents.

(b) Payments in subsidization of adoption shall include, but are not limited to, the maintenance costs, medical, and surgical expenses, and other costs incidental to the care, training, and education of the child. Such payments may not exceed the cost of providing comparable assistance in resource family care and shall be made until the child becomes 21 years of age if the child is enrolled as a verified, full-time student of a secondary school or its equivalent.

(c) In the event of the death of the adoptive parent(s), subsidy payments shall be transferred to the new caregiver when the caregiver demonstrates legal responsibility for the child as a result of being named guardian in the adoptive parent's will or having obtained a custody order through the courts.

(d) An adoptive parent cannot be disqualified from receiving subsidy because of his or her family income.

(e) The amount of monthly payment for care and maintenance will be 100 percent of the applicable resource care board rate.

§ 3A:23-1.5 Other payments

(a) The medical costs of children determined to be special needs will be covered through Medicaid.

(b) Any child eligible for adoption subsidy is eligible for legal subsidy directly related to the adoption when agreed upon and approved by the Department prior to the adoption.

(c) Expenses resulting from a condition which qualified the child for adoption subsidy and which are not covered by third-party liability or Medicaid may be covered by the Department if specified in the agreement.

§ 3A:23-1.6 Exceptions

The requirements and standards prescribed in this subchapter may be subject to exceptions in specific cases where the Department determines that strict compliance would result in undue hardship or jeopardize the health, safety or welfare of the prospective adoptive parent or child except that no exception to these rules may exceed the limitations provided by Federal or State law.

§ 3A:23-1.7 Administrative hearings

Any person aggrieved by a decision of the Department regarding adoption subsidy payments pursuant to this subchapter, including when the adoption subsidy payments are terminated or suspended without the concurrence of the adoptive parent, shall be entitled to an administrative hearing in accordance with N.J.A.C. 3A:5, Dispute Resolution, when an application for a hearing is filed with the Department's Administrative Hearings Unit within 20 calendar days of such decision or failure to act by the Department.

Title 3A, Chapter 23, Subchapters 2 through 3. (Reserved)

Title 3A, Chapter 24 -- Adoption Assistance and Child Welfare Act of 1980 Requirements

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 30:1-12 and 30:4C-4(h).

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2016 d.008, effective December 29, 2015.

See: 47 N.J.R. 2049(a), 48 N.J.R. 208(a).

Chapter 24, Adoption Assistance and Child Welfare Act of 1980 Requirements, was recodified from N.J.A.C. 10:131, Adoption Assistance and Child Welfare Act of 1980 Requirements, by administrative change, effective January 3, 2017. As part of the recodification, attendant technical changes were made to the rule text concerning cross-references, agency names, addresses, etc. See: 49 N.J.R. 98(a).

§ 3A:24-1.1 New Jersey Child and Family Services Plan

(a) New Jersey develops an annual Child and Family Services Plan. Copies of the New Jersey Child and Family Services Plan may be obtained from http://nj.gov/dcf/.

(b) The Department of Children and Families develops a Title IV-E plan. The public may request the Title IV-E Plan from:

Office of Advocacy

Department of Children and Families

PO Box 717

Trenton, NJ 08625

§ 3A:24-2.1 State child welfare services permanency planning

Title IV -E of the Social Security Act, 42 U.S.C. § 671, mandates that specific goals be established by State law before October 1st for each fiscal year as to the maximum number of Title IV-E eligible children who will remain in foster care for more than 24 months. This requirement is consistent with the intent of the legislation to improve services provided to children and their families, therefore reducing the number of children removed from their families and increasing the number of children returned to their families from out-of-home placement. This requirement is also consistent with the goal of the Division of Child Protection and Permanency, under N.J.S.A. 30:4C-1 et seq., to provide all children with permanency planning, therefore minimizing the number of children in temporary out-of-home placement.

§ 3A:24-2.2 State child welfare services goals

New Jersey has established the goal that no more than 1,800 Title IV-E eligible children will remain in foster care for more than 24 months during Federal fiscal year 2016 and thereafter. The Division of Child Protection and Permanency will make every effort within available resources to ensure that services are provided to maintain children in their own homes and to reunify children in out-of-home placement with their families as quickly as possible.

Title 3A, Chapter 25. (Reserved)

Title 3A, Chapter 26 -- Substance-Affected Infants

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 9:3A-7f, 9:6-8.15, 26:2H-5, and 30:4C-4(h).

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2018 d.018, effective January 16, 2018.

See: 49 N.J.R. 2599(a), 50 N.J.R. 283(b).

Chapter 26, Substance-Affected Infants, was adopted as new rules by R.2018 d.018, effective January 16, 2018.

§ 3A:26-1.1 Reports of substance-affected infants

(a) The Division of Child Protection and Permanency shall receive reports of substance-affected infants that ambulatory care facilities submit pursuant to N.J.A.C. 8:43A-28.7 and that hospitals submit pursuant to N.J.A.C. 8:43G-2.13.

(b) Upon receipt of a report pursuant to (a) above, the Division shall first determine if the report is an allegation of child abuse or neglect pursuant to N.J.S.A. 9:6-1 et seq., and if a determination that a report is an allegation of child abuse or neglect, respond in accordance with applicable law, including N.J.A.C. 3A:10.

(c) For reports made pursuant to (a) above that are not determined to be allegations of child abuse or neglect, the Division representative shall offer services to the parent of each substance-affected infant on a voluntary basis. If the parent accepts, the Division shall provide the services in accordance with N.J.A.C. 3A:11-1.6(b) and 1.7.

(d) All reports made pursuant to this chapter shall be considered child abuse investigative records and treated as confidential pursuant to N.J.S.A. 9:6-8.10a.

§ 3A:26-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Division" means the Division of Child Protection and Permanency in the Department of Children and Families.

"Substance-affected infant" means an infant:

1. Whose mother had a positive toxicology screen for a controlled substance or metabolite thereof during pregnancy or at the time of delivery;

2. Who has a positive toxicology screen for a controlled substance after birth that is reasonably attributable to maternal substance use during pregnancy;

3. Who displays the effects of prenatal controlled substance exposure or symptoms of withdrawal resulting from prenatal controlled substance exposure; or

4. Who displays the effects of a fetal alcohol spectrum disorder (FASD).

§ 3A:26-1.3 Content of reports

(a) Reports made pursuant to N.J.A.C. 3A:26-1.1 must include the following information:

1. The name of the substance-affected infant, if known;

2. The names of the substance-affected infant's mother and father, if known;

3. The home addresses of the substance-affected infant's mother and father, if known;

4. The types of substances affecting the substance-affected infant, and the harm, if any, caused to the substance-affected infant resulting from his or her exposure to the substances; and

5. Circumstances known to the reporter that would affect an evaluation of the situation, including, but not limited to, awareness of medications prescribed to the mother of the substance-affected infant.

Title 3A, Chapter 27 through 39. (Reserved)

Title 3A, Chapter 40 -- Determination of Eligibility for Functional Services from the Division of Children's System of Care

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 30:1-12, 30:4-25, 30:4-25.2, 30:4-25.3, 30:4-25.4, 30:4-25.6, 30:4-25.9, 30:4-60, 30:4-66, 30:4C-4.4, and 30:6D-23 through 32.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2014 d.026, effective January 21, 2014.

See: 45 N.J.R. 53(a), 46 N.J.R. 222(b).

Chapter 40, Determination of Eligibility for Functional Services from the Division of Children's System of Care, was recodified from N.J.A.C. 10:196, Determination of Eligibility for Functional Services from the Division of Children's System of Care, by administrative change, effective January 3, 2017. As part of the recodification, attendant technical changes were made to the rule text concerning cross-references, agency names, addresses, etc. See: 49 N.J.R. 98(a).

§ 3A:40-1.1 Purpose

(a) The purpose of this chapter is to establish guidelines and criteria for determination of eligibility for functional services to individuals with developmental disabilities under 21 years of age from the Division of Children's System of Care (CSOC) in the Department of Children and Families.

(b) The availability of services shall be limited to the CSOC's funding in a given fiscal year pursuant to N.J.S.A. 2C:30-4 and N.J.S.A. 30:4C-4.4(a).

§ 3A:40-1.2 Scope

The CSOC is responsible for providing functional services to eligible individuals with developmental disabilities under 21 years of age pursuant to N.J.S.A. 30:4C-4.4. The CSOC determines eligibility for functional services for applicants with suspected developmental disabilities under the age of 18 as set forth in this chapter. Individuals 18 years of age or older with suspected developmental disabilities may submit applications to the Division of Developmental Disabilities as set forth in N.J.A.C. 10:46. If the individual is between 18 years of age and 21 years of age, the CSOC accepts the Division of Developmental Disabilities' determination of whether the applicant has a developmental disability and meets the residency and citizenship requirements for the provision of functional services, but makes its own determination regarding the services that it provides to an eligible individual between the ages of 18 and 21 years of age.

§ 3A:40-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Adult" means a person age 18 years or older.

"Application" means the application form provided by CSOC and any supporting documentation necessary to the making of an informed determination with regard to applicant eligibility, including medical information. Supporting documentation may include, but is not limited to, educational, psychiatric, psychological, vocational, rehabilitation, or social service records.

"Benefits" means all current and future sources of cash and health assistance from Federal, State, or private entities including, but not limited to: Social Security; Supplemental Security Income (SSI); Medicare; Medicaid, including any applicable Medicaid waivers and NJ Family Care; State and Federal funds; and any third-party support pursuant to State rule, order, or by contract.

"Child" means a person under 18 years of age.

"Commissioner" means the Commissioner of the Department of Children and Families.

"CSOC" means the Division of Children's System of Care in the Department of Children and Families.

"Developmental disability" means a severe, chronic disability of an individual, which:

(a) Is attributable to a mental or physical impairment or combination of mental or physical impairments;

(b) Is manifest before age 22;

(c) Is likely to continue indefinitely;

(d) Results in substantial functional limitations in three or more of the following areas of major life activity:

1. Self-care;
2. Receptive and expressive language;
3. Learning;
4. Mobility;
5. Self-direction;
6. Capacity for independent living; or
7. Economic self-sufficiency; and

(e) Reflects the need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services, which are of lifelong or extended duration and are individually planned and coordinated.

Developmental disability includes, but is not limited to, severe disabilities attributable to intellectual disability, autism, cerebral palsy, epilepsy, spina bifida, and other neurological impairments where the above criteria are met.

"Director" means the Director of the Division of Children's System of Care.

"Functional services" means those services and programs in the CSOC available to provide a child with developmental disabilities with education, training, habilitation, rehabilitation, adjustment, treatment, care, or protection. Functional services provided by CSOC do not include educational and related services, including residential services, necessary to provide a free and appropriate education pursuant to N.J.S.A. 18A:1-1 et seq.

"Medical information" means reports that have been provided by licensed practitioners that demonstrate the existence of a developmental disability, as well as the individual's current physical condition and significant medical history.

"Mental illness" means a current substantial disturbance of thought, mood, perception, or orientation that significantly impairs judgment, capacity to control behavior, or capacity to recognize reality, but does not include simple alcohol intoxication, transitory reaction to drug ingestion, organic brain syndrome, or developmental disability.

"Mental impairment" means impairment in cognitive, neurological, sensory, or cerebral functioning resulting from other than mental illness.

"Physical impairment" means an impairment in motor functioning resulting from other than mental illness.

"Primary residence" means a dwelling where a person usually lives and does not include second homes.

"Resident" means a person who is a domiciliary of New Jersey for other than a temporary purpose and who has expressed an intention to have his or her primary residence in the State.

"Residential services" or "residential functional services" means observation, examination, care, training, treatment, habilitation, rehabilitation, and related services, including community care, provided by the CSOC to an eligible individual who has been admitted or transferred to, but not discharged from, any residential functional service for persons with developmental disabilities.

§ 3A:40-2.1 General eligibility

(a) An individual must have a developmental disability and meet the residency requirements described in N.J.A.C. 3A:40-2.2 to be eligible to receive functional services from the CSOC.

1. If the applicant is a child, substantial functional limitations are evaluated according to expectations based on the child's chronological age.

(b) An applicant who is deemed eligible to receive functional services from the CSOC shall, as a condition of continuing eligibility, apply for all benefits, including, but not limited to, Medicaid, NJ Family Care and any other State or Federal benefits for which he or she may be eligible and comply with the requirements for continuing eligibility if found eligible. The CSOC does not provide services that are available through other sources.

1. Notwithstanding the requirement to apply for benefits as set forth in this subsection, denial of an application for benefits does not constitute grounds for finding an individual ineligible for functional services from the CSOC.

(c) The receipt of functional residential services is contingent on the individual's or legally responsible relative's compliance with the requirements regarding contribution to the cost of care and maintenance set forth in N.J.S.A. 30:4-60 and 66.

(d) Individuals under 21 years of age who were determined eligible to receive functional services by the Division of Developmental Disabilities prior to January 1, 2013, shall be presumed eligible to receive functional services from the CSOC, but are subject to the provisions of (e) below.

(e) Consistent with N.J.S.A. 30:6D-32.8.c, eligible individuals are reassessed regarding their service needs at clinically appropriate intervals and, if that reassessment suggests that the individual no longer requires functional services or meets the eligibility criteria set forth in this chapter, the individual is reevaluated for continued eligibility for the CSOC's functional services.

§ 3A:40-2.2 Residency

(a) Only New Jersey residents who are U.S. citizens or permanent alien residents are eligible for functional services from the CSOC.

(b) It is the responsibility of the applicant to document that the residency and citizenship requirements of this section are met.

(c) A child is a New Jersey resident if his or her parent or legal guardian is a resident of New Jersey.

(d) If any individual has been placed in the State of New Jersey and that placement is funded totally or partially by a public or private agency in another state, that individual shall not be considered a resident of New Jersey.

(e) For individuals applying for services whose parent or guardian is in the U.S. military service, residency may be established when the parent or guardian can produce permanent change of station orders to New Jersey or when the parent or guardian declares his or her home of record to be New Jersey.

(f) The citizenship or immigration status requirements for eligibility are met if the applicant or his or her parent/legal guardian is a U.S. citizen or an alien lawfully admitted for permanent residence.

§ 3A:40-2.3 Presumptive eligibility for functional services

(a) If the applicant appears to be eligible for functional services and manifests an emergent need for services from the CSOC, then the applicant may be declared presumptively eligible by the CSOC or its contracted entity and the eligibility determination process shall be completed subsequent to the admission to service. If the person is found ineligible and has been receiving services under presumptive eligibility, immediate referral shall be made to the appropriate agency or agencies for services. That individual or his or her guardian shall be notified in writing that services will cease in 30 days.

(b) If the individual appeals the decision of ineligibility in accordance with N.J.A.C. 3A:40-5, then the individual may continue to receive services to the extent that they were initially authorized to ameliorate the emergency or until a Final Decision is rendered by the Director, whichever occurs first.

§ 3A:40-3.1 Who may apply

(a) Application for services under this chapter may be made on behalf of a child under 18 years of age by the following persons or entities:

1. The parents or guardian of a child;

2. An agency, public or private, on behalf of a child of whom it has care and custody; or

3. A court having jurisdiction over a child.

(b) Applications for functional services from the CSOC shall be made on behalf of an adult under 21 years of age to the Division of Developmental Disabilities as set forth in N.J.A.C. 10:46. The CSOC accepts the Division of Developmental Disabilities' determination regarding whether the applicant has a developmental disability and meets the residency requirements for the receipt of functional services, but independently determines the most appropriate services and the services to be provided until the individual reaches 21 years of age.

§ 3A:40-3.2 How to apply for functional services from the CSOC on behalf of children under 18 years of age

(a) DCF shall maintain information on initiating the application process on its website.

(b) To the extent practicable, written material shall be provided in the individual's primary language and in alternate formats as needed. Accommodations are made for applicants who cannot complete the application by himself or herself.

(c) Minimum information submitted shall include, but not be limited to:

1. Social data, such as name, address, telephone number, Social Security number, and present living arrangement;

2. Medical information;

3. Present programs, including the applicant's educational program;

4. Name, address, and telephone number of the individual, if someone other than the person on whose behalf application is being made;

5. Presenting request, such as the specific service(s) that may be desired, if known by the individual;

6. Financial information on the applicant and, as appropriate, the applicant's parents/guardians, including basic information, such as Social Security number and the amount and type of benefits received, and, when applicable, information required to determine the contribution to care pursuant to N.J.S.A. 30:4-60 and 66; and

7. Documentation of residency.

(d) It is the responsibility of the applicant to cooperate with the CSOC in obtaining required records by signing consent to release of information forms and identifying persons or agencies known by the applicant to be in possession of the needed records.

(e) An application is deemed complete when there is sufficient information to make a determination of eligibility.

§ 3A:40-4.1 Determination

(a) The CSOC or its contracted entity shall open an electronic record in response to an applicant's request for a determination of eligibility for functional services.

(b) The CSOC or its contracted entity shall assist in completion of the application upon request of the individual or entity making the application on behalf of the applicant with a suspected developmental disability.

(c) Upon receipt of an application, including all necessary documentation, the CSOC or its contracted entity shall make the eligibility determination based on specific findings regarding the eligibility criteria set forth in N.J.A.C. 3A:40-2.

(d) If the CSOC or its contracted entity is unable to make an eligibility determination based on the submitted documentation, it shall:

1. Conduct a face-to-face interview within 30 days, if additional information is needed;

2. Request peer consultation in reaching a decision; or

3. Take other action as appropriate to request or gather supplemental information sufficient to make an eligibility determination.

(e) If the eligibility criteria set forth in N.J.A.C. 3A:40-2 are met, then the CSOC or its contracted entity determines the particular functional services deemed most appropriate for the applicant.

§ 3A:40-4.2 Notice requirements

(a) Notice of the status of the application for eligibility for functional services is provided to the applicant within 60 days of the receipt of a completed application.

(b) If the eligibility decision cannot be made within 60 days from receipt of a complete application for determination of eligibility for services, then the applicant is advised, in writing, as to the specific reasons why a determination cannot be made, and shall be informed of the status of the application at least every 30 days. The written notice shall include the name and telephone number of a contact person for additional information about the status of the application.

(c) The applicant is notified in writing within 10 working days of the eligibility determination.

1. If the applicant is found eligible for functional services, notice shall include information regarding the particular functional service deemed most appropriate at the time of the determination, the immediate availability of such services, or alternative service.

2. If the individual is found ineligible, notice shall include the specific reason(s) for the ineligibility determination and shall include information regarding the individual's right to appeal the determination of ineligibility.

§ 3A:40-5.1 Appeals

(a) An applicant may appeal the CSOC's determination of ineligibility using the process set forth in N.J.A.C. 3A:5-4.1.

(b) The applicant bears the burden of proof and burden of persuasion in an appeal of the CSOC's determination of ineligibility.

(c) When the ineligibility determination is made by the Division of Developmental Disabilities, the appeal is filed with that agency pursuant to N.J.A.C. 10:48. The CSOC accepts the final outcome of that litigation if the applicant is under 21 years of age.

Title 3A, Chapter 41 through 49. (Reserved)

Title 3A, Chapter 50 -- Manual of Requirements for Adoption Agencies

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 9:3-37 et seq., 9:3A-7g, and 30:4C-4(b) and (h).

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2016 d.052, effective April 27, 2016.

See: 47 N.J.R. 3078(a), 48 N.J.R. 103(a), 48 N.J.R. 965(a).

Chapter 50, Manual of Requirements for Adoption Agencies, was recodified from N.J.A.C. 10:121A, Manual of Requirements for Adoption Agencies, by administrative change, effective January 3, 2017. As part of the recodification, attendant technical changes were made to the rule text concerning cross-references, agency names, addresses, etc. See: 49 N.J.R. 98(a).

§ 3A:50-1.1 Purpose

(a) The purpose of this chapter is to prevent the exploitation and to protect the health and well-being of children being served by adoption agencies, as well as to protect the legal rights of children and birth and adoptive parents by establishing standards of agency organization and administration, professional training, experience, practices and requirements relating to the responsibility of agencies providing adoption services in New Jersey.

(b) This chapter constitutes minimum baseline requirements to ensure that the basic programmatic and administrative needs of adoption agencies and the social service needs of the families and children they serve are met. Compliance with this chapter is necessary if an adoption agency is to open or operate, and no adoption agency is permitted to operate below the level of requirements specified in this chapter. This chapter is in no way intended to prohibit or prevent adoption agencies from going beyond the minimum requirements contained in these rules. The decision whether to exceed these requirements rests with each agency.

§ 3A:50-1.2 Scope

This chapter constitutes comprehensive rules governing the certification of adoption agencies pursuant to N.J.S.A. 9:3-37 et seq.

§ 3A:50-1.3 Implementation and enforcement responsibility; information

The Office of Licensing of the New Jersey Department of Children and Families shall be responsible for implementing and enforcing this chapter. For further information or technical assistance in understanding and/or complying with this chapter, please contact:

Office of Licensing

Department of Children and Families

PO Box 717

Trenton, New Jersey 08625-0717

(609) 826-3999 or (877) 667-9845

§ 3A:50-1.4 Authority to provide adoption services

(a) Under N.J.S.A. 9:3-37 et seq., all private and public adoption agencies, both within New Jersey and outside the State that provide adoption services in New Jersey, must be certified by the New Jersey Department of Children and Families in order to open and operate. This requirement shall not be construed to require certification of adoption agencies located outside the State in the following situations:

1. The out-of-State agency has a cooperative agreement with a New Jersey certified agency to provide the adoption services in New Jersey as specified at N.J.A.C. 3A:50-3.3(c); or

2. The out-of-State agency is facilitating the interstate adoption of a New Jersey-born child, provided that no legal proceedings occur in New Jersey and that the agency:

i. Maintains no physical presence in New Jersey;

ii. Provides no adoption services in New Jersey and such services are not required; and

iii. Fully complies with all laws governing such practice, including licensure requirements, in the jurisdiction into which the child is being placed.

(b) In order to be eligible for a certificate of approval, an adoption agency shall demonstrate to the satisfaction of the Department of Children and Families compliance with the requirements of the State Adoption Law and with the rules contained in this chapter, which constitute minimum requirements only.

(c) These rules shall not be applicable to the adoption of adults.

§ 3A:50-1.5 Types of adoptions

(a) "Adoption" means the legal transfer of all parental rights and responsibilities from each birth and legal parent(s) to another person who desires to assume those rights and responsibilities.

(b) Adoptions that are subject to the provisions of this chapter are classified as follows:

1. "Agency adoption" is an adoption where the birth parent(s) and the adoptive parent(s) come to an agency independent of each other and there is no prior relationship for the purpose of adoption;

2. "Foreign adoption" is the adoption of a child who resides in a country other than the United States of America. An agency shall comply with the requirements of the Federal Immigration and Naturalization Act (P.L. 95-417), and any successor or amending legislation regarding the classification of an alien orphan child as an immediate relative for purposes of an immigration visa; shall comply with the Intercountry Adoption Universal Accreditation Act of 2012, 42 U.S.C. §§ 14922 et seq.; and shall comply with each country's supervision and visitation requirements and relevant requirements of the Hague Convention on Intercountry Adoption when the child has entered the United States with the adoptive family;

3. "Identified adoption" or "private adoption" is an adoption where the agency becomes involved in providing services to each birth parent, legal parent and prospective adoptive parent who is considering a plan to place the child for adoption in the prospective adoptive parent's home;

4. "Independent adoption" is an adoption where the child is received in the adoptive home from a source other than an agency. Subsequent to the placement, the court orders an agency to conduct an Adoption Complaint Investigation (ACI) in order to investigate the circumstances of the placement and to assess the adoptive home;

5. "Stepparent adoption" is an adoption of a child by the birth parent's current spouse; and

6. "Relative adoption" is an adoption of a child by a person(s) who is related by blood or marriage.

§ 3A:50-1.6 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Adoptee" means a person who has been placed in an adoptive home and whose adoption has been legally finalized.

"Adoption agency" or "agency" means a Department-certified public or private entity organized for all or part of its purpose to provide adoption services to children, adoptees, adoptive applicants, birth parents, or adoptive parents.

"Adoption Complaint Investigation" means an investigation ordered by the court to determine the circumstances of a non-agency placement and to assess the suitability of the prospective adoptive parents. The investigation is conducted by a court-appointed State-approved adoption agency in response to the filing of an adoption petition on behalf of the prospective adoptive parents. Such investigation includes a home study and post-placement services unless otherwise specified by the court.

"Adoption services" means services related to the preparation, execution, and finalization of an adoption in New Jersey, including, but not limited to, pre-placement, home study, placement, post-placement, or post-adoption services or other related activities, including those requested by courts and other adoption agencies and organizations, whether or not the agencies and organizations are certified in New Jersey.

"Adoptive applicant" means a prospective adoptive parent who has applied to adopt a child but who has not yet received a child for adoption placement.

"Adoptive parent" means a person with whom a child has been placed for adoption or who has adopted a child.

"Branch office" means a Department-certified adoption program that is a geographically separate but administratively dependent part of an agency.

"Certificate of approval" or "certificate" means a document issued by the Office of Licensing to an agency indicating that the agency is in substantial or full compliance with all applicable provisions of this chapter, and that there is no serious or imminent hazard to the health, safety or well-being of the children, birth parents, adoptive parents or adoptive applicants being served by the agency.

"Child" means any person under 18 years of age.

"Commissioner" means the Commissioner of the Department of Children and Families.

"Conditional surrender" means a voluntary relinquishment of all parental rights by a birth parent, adoptive parent, or other person or agency authorized to exercise these rights by law, court order or otherwise for purposes of allowing a child to be adopted by a person(s) specified by the surrendering parent.

"Custody" means the general right to exercise continuing control over the person of a child derived from court order or otherwise.

"Denial of a certificate" means the withholding of a certificate of approval for which an agency has applied, based on the agency's failure or inability to comply with requirements of N.J.S.A. 9:3-37 et seq., or of this chapter.

"Department" means the New Jersey Department of Children and Families.

"Division" means the Division of Child Protection and Permanency of the New Jersey Department of Children and Families.

"Executive director" or "administrator" means the person in a certified agency responsible for the overall administration and direction of the agency and its staff.

"Finalization" means the entry of a legal order of adoption issued by a court of competent jurisdiction, pursuant to N.J.S.A. 9:3-37 et seq.

"Foster care" means the temporary placement in an agency-approved private home of a child who is in the care or custody of an agency.

"Governing board" means the public or private body which has final legal responsibility for or authority over a certified adoption agency.

"Guardianship" means the right to exercise continuing control over the person or property or both of a child, including any specific right of control over an aspect of the child's upbringing derived from court order.

"Home study" means the agency's formal assessment of the capacity and readiness of prospective adoptive parents to adopt a child, including the agency's written report and recommendation.

"Intermediary" means any person, firm, partnership, corporation, association, agency, or adoption facilitator, whether located in New Jersey or not, who acts for, between, or on behalf of any parent and any prospective adoptive parent.

"Manual of Requirements for Adoption Agencies" or "Manual of Requirements" means the rules promulgated in this chapter, which constitute minimum requirements for adoption agencies placing children for adoption in New Jersey.

"Office of Licensing" or "Office" means the Office of Licensing of the New Jersey Department of Children and Families.

"Parent" means an expectant mother or a birth parent or birth parents, including the biological father of a child born out of wedlock who has acknowledged the child or to whom the court has ordered notice to be given, or a parent or parents by adoption.

"Placement services" means any and all services offered by a certified agency to prospective adoptive children and families ranging from selection of a particular family for a particular child through the physical arrival of the child in the adoptive home.

"Post-adoption services" means any and all services offered by or through the auspices of an agency to any party involved in an adoption after finalization of the adoption.

"Post-placement services" means any and all services offered by or through the auspices of an agency to any member of an adoptive family from the placement of the child to finalization of the adoption.

"Pre-placement services" means any and all services offered by or through the auspices of an agency to birth parent(s) and child(ren) to evaluate and prepare them for an adoptive placement.

"Private and professional setting" refers to a location conducive to quiet conversation and affording confidentiality during verbal discussions.

"Referring agency" means an agency or organization with which a New Jersey-certified agency has a written agreement regarding the provision of adoption-related services in New Jersey.

"Revocation of a certificate" means a rescinding of an agency's current certificate to operate because of the agency's failure or refusal to comply with the requirements of N.J.S.A. 9:3-37 et seq., or of this chapter.

"Satellite office" means an office that is utilized by, but is geographically separated from, a Department-certified adoption agency and lacks its own certification.

"Shall" denotes a requirement of this chapter that an adoption agency must meet to qualify for a certificate.

"Should" denotes a recommendation reflecting goals towards which an adoption agency is encouraged to work.

"Social worker" means a professional staff member of an agency who possesses the required qualifications specified in this chapter and who works directly with children, adoptees, birth parents, or adoptive parents and other relevant individuals.

"Social work supervisor" means a staff member of an agency who possesses the qualifications specified in this chapter and who supervises the professional staff who work directly with children, adoptees, birth parents, or adoptive parents and other relevant individuals.

"Staff member" means any person employed by or working for or with an agency on a regularly scheduled basis, whether for compensation or not. This shall include full-time, part-time, voluntary, substitute, contract or consulting personnel, and paid and unpaid individuals utilized by the agency to provide temporary foster care for children.

"Subsidy" means the financial or other material support provided directly or made available to an adoptive family to assist in the adoptive placement, legal expenses of adoption, or continuing care of a child placed for adoption.

"Surrender" means a voluntary relinquishment of all parental rights by a birth parent, adoptive parent, or other person or agency authorized to exercise these rights by law, court order or otherwise, for purposes of allowing a child to be adopted.

"Suspension of a certificate" means a temporary rescinding of an agency's current certificate of approval to operate. The suspended certificate may be reinstated by the Office of Licensing upon the agency's compliance with requirements of the State Adoption Law and of this chapter.

"Termination of parental rights" means the transfer by an order of a court of competent jurisdiction of all rights of control and authority over a child from its birth parent(s) or prior adoptive parent(s) to an agency or other person.

§ 3A:50-1.7 Compliance with State laws

(a) Any adoption agency whose principal office is located outside of this State shall be licensed, certified, or otherwise legally permitted to operate in the state or country where the agency's principal office is located as a condition of applying for, securing, and maintaining a certificate of approval in New Jersey.

(b) No certified adoption agency shall discriminate with regard to the provision of any adoption-related services on the basis of age, religion, marital status, civil union or employment status with regard to the selection of adoptive parents for any child. However, these factors may be considered, pursuant to N.J.S.A. 9:3-40, in determining whether the best interests of a child would be served by a particular placement for adoption or by finalization of an adoption.

(c) No certified adoption agency shall deny to any person the opportunity to become an adoptive or foster parent on the basis of the race, color, or national origin of the child involved; or delay or deny the placement of a child for adoption or into foster care, or otherwise discriminate in making a placement decision on the basis of the race, color, or national origin of the adoptive or foster parent or the child involved.

(d) Each adoption agency shall have a written non-discrimination policy in accordance with (b) and (c) above.

§ 3A:50-1.8 Eligibility for a certificate of approval

(a) Any public or private firm, partnership, corporation, association, or agency located within or outside the State of New Jersey that provides adoption services to families in New Jersey or to children from New Jersey, whether as part or all of its function, shall secure and maintain a certificate of approval.

(b) The following are not subject to certification requirements under the law:

1. Foster care programs, unless operated as a support to, or as an integral part of the agency's adoption program, as specified in N.J.A.C. 3A:50-1.6;

2. Self-help or support groups that operate independent of an agency and provide adoption-related information or supportive peer assistance to members;

3. Lawyers, law offices or legal services offices that provide only legal services as permitted under the law and court rules;

4. Agencies, organizations, or independent professionals that do not place children for adoption, but provide social work services, mental health, family services, or similar services, to the general public, including adoptive families who may choose to use their services;

5. Unpaid intermediaries, as specified in N.J.A.C. 3A:50-1.6;

6. Providers of commercial services that are not used primarily for or represented as facilitating the adoption of children, including general-interest advertising, transportation, communication, and medical services; and

7. Out-of-State agencies operating as specified at N.J.A.C. 3A:50-1.4(a)1 and 2.

§ 3A:50-2.1 Application for a certificate of approval

(a) An organization interested in providing any kind of adoption service shall first secure a certificate of approval from the Department, pursuant to the requirements of this chapter. Operation of an adoption agency without a valid certificate, as required by law, constitutes a crime of the second degree, pursuant to N.J.S.A. 9:3-39.1.d.

(b) The agency shall file a completed application for a new or renewed certificate with the Office of Licensing at least 60 calendar days prior to the anticipated date of operation or the expiration of an agency's existing certificate.

(c) An applicant for a new certificate shall submit to the Office of Licensing a written plan for the agency's operation that includes the following:

1. A statement of agency purpose, scope of adoption program and target groups to be served, program goals and objectives, description of services, and plans for coordination with other agencies and community resources;

2. A description of organizational structure, including the names of the board of directors and its committees, staff organization charts, number and qualifications of board members and names of executive officers and titles of offices held, such as president or chairperson;

3. A list of all branch offices of the adoption agency, if any;

4. A list of personnel, including all present and expected staff members who have direct contact with clients, their qualifications and duties;

5. A budget and financial plan, including actual or projected statement of revenues and expenses, documentation of sufficient resources to support agency operations, general/comprehensive liability insurance coverage for agency operations, and a listing of fees for service;

6. A copy of the forms to be used by the agency, including applications, intake, case record, evaluation, financial and statistical report forms;

7. A copy of agency incorporation papers and proof of not-for-profit status;

8. A copy of the agency's non-discrimination policy, as specified in N.J.A.C. 3A:50-1.7;

9. A copy of an audit or financial statement, if requested by the Office of Licensing; and

10. For agencies located outside of New Jersey, a copy of that agency's most current licensing or approval inspection report and the license or certificate that reflects the agency's licensing or approval status in that state or country or a statement indicating that the relevant state or country does not require licensure or approval for the provision of adoption services.

(d) An agency applying for a renewal of a certificate of approval shall submit those items listed in (c)2, 3, 4 and 5 above, and (c)10 above, if applicable. An agency shall submit the item listed in (c)9 above upon request of the Office of Licensing.

§ 3A:50-2.2 Issuance of a certificate of approval

(a) The Office of Licensing shall review the application for a certificate and shall conduct one or more field visits to in-State agencies and, at its discretion, conduct one or more field visits to out-of-State agencies to ensure that the agency is in compliance with all requirements of N.J.S.A. 9:3-37 et seq., and this chapter.

(b) After the Office of Licensing conducts an initial inspection of a new agency and finds the agency to be in substantial or full compliance with this chapter, the Office shall issue a certificate of approval.

(c) If the Office of Licensing issues a certificate of approval to an agency that is in substantial compliance with the requirements of the State Adoption Law and of this chapter, the Office shall provide written notification to the agency indicating the steps the agency must take to achieve full compliance.

(d) If the Office of Licensing determines that the agency cannot be issued a certificate of approval, the Office shall provide written notification to the agency indicating the steps the agency must take to secure a certificate of approval, if applicable.

(e) Each certification period shall be two years.

1. In determining the expiration date of the first certificate of approval, the Office of Licensing shall compute the two-year certification period from the date of issuance of the first certificate.

2. In determining the expiration date of a renewed certificate, the Office of Licensing shall compute the two-year certification period from the date on which the agency's previous certificate expired.

(f) The certificate of approval shall be issued to a particular adoption agency at a particular location and shall not be transferable.

(g) The agency shall display the certificate at all times in a location of prominence within the agency.

(h) No adoption agency shall make claims either in advertising or in any written or verbal announcement or presentation contrary to its certification status.

§ 3A:50-2.3 Denying, suspending, revoking, or refusing to renew a certificate of approval

(a) The Office of Licensing may deny, suspend, revoke, or refuse to renew an adoption agency's certificate for good cause, including, but not limited to, the following:

1. Failure to comply with requirements of this chapter;

2. Violation(s) of the terms and conditions of a certificate;

3. Fraud or misrepresentation in obtaining a certificate or in the subsequent operation of the agency;

4. Refusal to furnish the Department with files, reports, records or other information as required by this chapter, or to cooperate with an inspection or investigation by the Department;

5. Refusal to permit an authorized representative of the Department to gain access to the agency during normal operating hours. An authorized representative includes:

i. A representative of the Office of Licensing;

ii. A representative of the Department for purposes of investigating allegations of child abuse or neglect;

iii. The Commissioner or his or her designee; and

iv. Any person specifically authorized by statute;

6. Failure of an out-of-State agency to maintain a required license, approval, or certificate in its own state or country;

7. Failure by the agency or executive director to secure and to maintain on file documentation from the Department showing compliance with criminal conviction disclosures, as specified in N.J.A.C. 3A:50-4.5, or Child Abuse Record Information background checks, as specified in N.J.A.C. 3A:50-4.6;

8. Refusal by the executive director to consent to or cooperate in a Criminal History Record Information background check or Child Abuse Record Information background check for himself or herself;

9. Refusal by the executive director to terminate the employment of a staff member who refuses to consent to or cooperate in a Criminal History Record Information background check or Child Abuse Record Information background check;

10. Refusal by the executive director to terminate the employment of a staff member when an allegation of child abuse or neglect has been substantiated against the staff member;

11. Refusal by the executive director to terminate the employment of a staff member convicted of a crime or offense requiring disqualification, as specified in N.J.A.C. 3A:50-4.5;

12. A substantiated allegation of child abuse or neglect against the executive director; and

13. The executive director's conviction of a crime or offense requiring disqualification, as specified in N.J.A.C. 3A:50-4.5.

(b) If an agency's certificate is suspended, the Office of Licensing shall issue or reinstate the agency's certificate once the agency achieves compliance with the requirements of this chapter. In such a case, the Office shall not require the agency to submit a new application for a certificate unless such reapplication is expressly made a condition of the issuance or reinstatement of the certificate.

(c) The Office of Licensing shall provide written notice to the agency before denying, suspending, revoking or refusing to renew the agency's certificate. The notice shall specify the Office's reasons for such action.

(d) If the Office of Licensing denies, revokes, or refuses to renew an agency's certificate of approval, and the reason(s) for the denial, revocation, or refusal have been resolved, the agency must reapply to the Office for a certificate in order to secure a new certificate prior to resuming operations.

(e) The Office of Licensing may impose conditions upon an agency's adoption services, and shall provide notice if an agency's certification will contain such conditions.

(f) Each certificate issued by the Office of Licensing to an adoption agency remains the property of the State of New Jersey. If an agency's certificate is suspended or revoked, or upon the permanent closing of the agency, the agency shall return the certificate to the Office immediately.

§ 3A:50-2.4 Administrative hearings

(a) When the Office of Licensing proposes to deny, suspend, revoke or refuse to renew a certificate, the Office shall afford the applicant or agency written notice of an opportunity for an administrative hearing by certified or registered mail or in-person delivery.

1. The notice shall specify the facts and legal authority which form the basis of the proposed action, and shall require an answer requesting a hearing, if desired, within 10 working days of receipt of the notice.

2. If the agency fails to request a hearing within 10 working days of receipt of the notice, the Office of Licensing shall take the proposed action immediately.

(b) The hearing shall be conducted pursuant to the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq.) and the Uniform Administrative Procedure Rules as specified in N.J.A.C. 1:1-1 et seq.

§ 3A:50-2.5 Court action

(a) The Department may institute a civil action in a court of competent jurisdiction for injunctive relief to enjoin the operation of an adoption agency for good cause, including, but not limited to, the following:

1. Any imminent dangers or hazards that threaten the health and safety of children and families served by the agency;

2. Repeated violations of the requirements of this chapter; or

3. Opening and operating an adoption agency without a certificate or without complying with the requirements of this chapter.

§ 3A:50-2.6 Complaints

(a) Whenever the Office of Licensing receives a report alleging violations of this chapter by an adoption agency, the Office of Licensing shall ensure that the allegation is investigated to determine whether the complaint is substantiated.

(b) The Office of Licensing shall notify the complainant and the agency in writing of the results of the complaint investigation after the report of the investigation has been finalized. Such notification shall include the results of the investigation, pursuant to N.J.S.A. 47:1A-1 et seq., commonly known as the State Right to Know Law and the Open Public Records Act N.J.S.A. 47:1A-1 et seq., except that any information otherwise prohibited from disclosure by law shall be withheld.

(c) Any individual filing a complaint may do so anonymously. If the complainant reveals his or her identity, the name of the complainant, together with a description of the complaint and its status, shall be included in the Office of Licensing's records and shall be available for public review upon completion of the investigation, pursuant to N.J.S.A. 47:1A-1 et seq., except that any information otherwise prohibited from disclosure by law shall be withheld.

(d) The Office of Licensing shall consider complaints or other notifications regarding an agency's adoption practices in a state other than New Jersey in reviewing that agency's adoption practices, if such complaints have implications for the agency's service in New Jersey.

(e) No agency shall discriminate against a person because of the filing of a complaint under this section.

(f) The agency shall cooperate with the Office of Licensing's investigations whenever such complaint investigations are conducted and shall ensure that all information that is requested by the Office of Licensing is complete and accurate. The agency shall ensure that all staff members are available for interview upon the Office of Licensing's request.

§ 3A:50-2.7 Public access to Office of Licensing records

(a) The Office of Licensing shall make its adoption agency certification files available for examination during regular business hours by any person and shall supervise any person examining its files on the adoption agency.

(b) The Office of Licensing shall make the following items in the files open to public review:

1. Applications for certificates and related materials documentation;

2. Copies of certificates;

3. Correspondence between the Office of Licensing and the agency or other parties in matters pertaining to the Office's review, inspection or certification of the agency;

4. Program evaluation, inspection, and violation reports where applicable, reflecting results of Office of Licensing inspections and reinspections of the agency;

5. Forms and other standard documents used to collect routine data on the agency and its program as part of its record of compliance with the Manual of Requirements;

6. Enforcement letters from the Office of Licensing requiring abatement of violations of the Manual of Requirements;

7. Correspondence to the adoption agency from the Attorney General;

8. Chronological lists of events about the agency on compliance and/or enforcement matters;

9. Completed complaint investigation reports, except for child abuse or neglect investigations or other information that cannot be legally disclosed to the public; and

10. Any other documents, materials, reports, and correspondence that would normally be included as part of the public record.

(c) The Office of Licensing shall keep confidential and not part of the public record the following:

1. Records, reports, or correspondence that pertain to child abuse and/or neglect investigations involving children placed or supervised by the agency that are restricted from public access under the requirements of the state's child abuse and neglect laws;

2. Records, reports, correspondence, or forms containing names and/or any other identifying information pertaining to children, birth parent(s), or adoptive parent(s) that are restricted from public access under the sealed records requirements of N.J.S.A. 9:3-37 et seq.;

3. Confidential information with regard to specific agency personnel;

4. Any items that deal with reports of complaint investigations that are still in progress;

5. Memoranda and other internal correspondence between and among public agencies, including internal communication between the Department and the Attorney General, except as otherwise provided by law; and

6. Other material required by law to be maintained as confidential.

§ 3A:50-3.1 Governing board requirements for private agencies

(a) Each private agency shall have a governing board composed of at least five voting board members that is representative of a variety of interests and points of view in the communities where the agency provides services, which shall have the authority to:

1. Set overall policy for the agency; and

2. Ensure the financial viability of the agency.

(b) The governing board shall establish policies pertaining, but not limited, to:

1. Program and services to clients;

2. Personnel recruitment, selection, training and performance evaluation; and

3. Annual reviews of fiscal operations, including bank account records, expenditures, budget and resource development, and fund raising.

4. The governing board shall ensure that there are sufficient funds available to cover the costs of the transfer of records to other agencies when the agency ceases operation.

5. The governing board shall ensure that there are sufficient funds available to cover the costs for storage of records pending the actual transfer of records to other agencies when the agency ceases operation.

(c) The governing board shall delegate responsibility for day-to-day operations to an executive director or administrator and shall clearly delineate in writing the respective duties of the governing board and of the executive director or administrator.

(d) The governing board shall have written provisions guiding its composition, including provisions for representation of a variety of community interests, fiscal expertise, and for time-limited terms of office for board members.

(e) The governing board shall meet at least every six months and make records of attendance and minutes of each meeting available for inspection by the Office of Licensing.

(f) The governing board shall have a written policy covering conflict of interest, which shall include the following provisions:

1. Board members shall serve without compensation or other material benefit, except that board members may be reimbursed for actual expenses, as determined by the board.

2. The agency shall not use any business that is owned or operated by a board member or in which a board member has a financial interest and shall not use the services of a board member unless the board can document that the goods or services were obtained at a competitive price.

3. Board members seeking adoption services from the agency shall either take a leave of absence from the board or serve as a non-voting member during the period(s) when such services are received. This requirement shall also apply when a person from a Board member's immediate family seeks agency adoption services.

4. The agency shall not require clients to use the consultant services of a board member or of a board member's family.

5. A board member shall not use a board position for personal benefit or for the benefit of relatives, family or friends who are seeking adoption services from the board member's agency.

6. Agency personnel and members of their families shall not serve as officers of the board or voting members of the board.

(g) The board shall oversee the transfer of clients and services and preserve records, as specified in N.J.A.C. 3A:50-3.5(g), whenever an agency terminates its adoption program.

(h) Each member of the governing board shall:

1. Be of good character, as evidenced by the agency's application for certification in accordance with N.J.A.C. 3A:50-2.1(c), and administrative records, as specified at N.J.A.C. 3A:50-3.6(g); and

2. Not engage in or permit any conduct inappropriate to the purposes of the agency.

(i) Upon receipt of an allegation that a member of the governing board may be in violation of any provision in (h) above, the Office of Licensing shall conduct a complaint investigation and provide written notification of the results, as specified in N.J.A.C. 3A:50-2.6.

§ 3A:50-3.2 Advisory board requirements for public agencies

(a) Each public agency shall have an advisory board or advisory council that is representative of a variety of interests and points of view in the communities where the agency provides services. The advisory board shall:

1. Keep informed of and make recommendations regarding the operational policies and practices of the agency;

2. Provide advice to the agency on matters of policy, planning, program evaluation and practice;

3. Periodically review aspects of the agency's adoption operation;

4. Meet at least annually and make records of attendance and minutes of each meeting available for inspection by the Office of Licensing; and

5. Adhere to the standards for private agency governing boards, as specified in N.J.A.C. 3A:50-3.1(d) through (i).

§ 3A:50-3.3 Legal responsibilities

(a) An agency shall be authorized to place children for adoption, accept relinquishment of parental rights, receive custody and/or guardianship of a child and have the right to consent to adoption. An agency that takes custody or guardianship of the child shall also be legally responsible for the child under care or guardianship until the adoption is finalized or until the child's custody and care or guardianship is transferred to another certified agency or person.

(b) When an agency transfers a child, the agency shall document the reasons for such action in the case record and shall verify that the second agency to which the child is being transferred is licensed, certified, or approved in the state where it is based.

(c) A New Jersey-certified agency may work cooperatively with an out-of-State agency only if:

1. The New Jersey-certified agency verifies that the out-of-State agency is licensed, certified, or approved as required in the state or country where the adoption services are provided or where the child will be placed;

2. Both agencies execute a written cooperative agreement; and

3. Both agencies develop a written plan detailed in the cooperative agreement that:

i. States which agency shall have legal custody of the child;

ii. Defines financial and social work responsibilities before, during, and after the placement of each child; and

iii. Defines, in case of disruption before the child's adoption has been finalized, which agency maintains custody of the child, is responsible for securing a new placement for the child, and how the child will be transported to the new placement.

(d) A New Jersey-certified agency may work with an intermediary only if the agency verifies that the intermediary does not receive money or other valuable consideration in connection with the placement of a child for adoption, pursuant to N.J.S.A. 9:3-39.1. This shall not prohibit the receipt of payment for services rendered prior to the contemplation of the placement of a non-New Jersey child in New Jersey if the intermediary services were legally permissible at the time and place rendered and compliant with Federal law, inclusive of treaty obligations.

§ 3A:50-3.4 Information to parents and adoptive applicants

(a) The agency shall provide the birth parents and adoptive applicants with a written statement or pamphlet indicating certain parental and agency rights and responsibilities, as specified in N.J.A.C. 3A:50-3.4(b).

(b) The written statement or pamphlet shall contain the following information:

1. That the agency is required to be certified by the New Jersey Department of Children and Families pursuant to N.J.S.A. 9:3-37 et seq.;

2. That the agency is required by law to comply with all applicable requirements of this chapter;

3. That the agency shall make a current copy of this chapter available for review by the parents of children served by the agency;

4. That any parent who believes or suspects that the agency is in violation of any requirements of the Manual of Requirements for Adoption Agencies may report such alleged violations to the Office of Licensing;

5. That any parent may secure a copy of this chapter by contacting the Office of Licensing, Department of Children and Families;

6. That when so requested by parents of children served by the agency, the agency shall make available for review the Office of Licensing's certification records and any Inspection or Violation Reports on the agency, except for those records prohibited from disclosure, pursuant to N.J.S.A. 9:6-8.10a and any other laws prohibiting such disclosure;

7. That any person who has reasonable cause to believe that a child being served by the agency has been or is being subjected to any form of child abuse or neglect or exploitation by any person, whether working at the agency or not, shall report such allegations to the Department of Children and Families' toll-free hotline, 1-877-NJ-ABUSE (652-2873), pursuant to N.J.S.A. 9:6-8.8 et seq. and to the child abuse reporting hotline in the state where the child is located. Such reports may be made anonymously;

8. That parents may secure information about child abuse and neglect in New Jersey online from the Department of Children and Families at www.nj.gov/dcf/reporting;

9. That the agency shall cooperate with the adoptive parents and/or the attorney retained by the adoptive parents in providing all financial information needed for the finalization report pursuant to N.J.S.A. 9:3-37 et seq.; and

10. Data on adoptions completed during the previous 12 months.

(c) When a child has been identified by the agency as having a disability or suspected disability and services have not been arranged, the agency shall inform the parent(s) of their child's right to special educational and medical services and shall refer the parent(s) to:

1. The New Jersey Department of Education, Office of Special Education Programs, or the equivalent office in the state where the child lives, for a possible comprehensive evaluation and individual service plan for the child; and

2. The New Jersey Department of Health, Division of Family Health Services, Special Child Health and Early Intervention Services, or the equivalent office in the state where the child lives, for a possible comprehensive medical evaluation for the child.

§ 3A:50-3.5 Reporting requirements

(a) The agency shall orally notify the Department of Children and Families' toll-free hotline, 1-877-NJ-ABUSE (652-2873), immediately, whenever there is any allegation received by the agency or other reasonable cause to believe that a child under the supervision or care of the agency has been or is being abused or neglected by any person, pursuant to N.J.S.A. 9:6-8.9, 8.10, 8.13, and 8.14. The agency shall notify the Office of Licensing of these allegations, as well as of any other allegations that were made by other parties and came to the agency's attention.

(b) The agency shall notify the Office of Licensing orally of any of the following changes or events within 24 hours after the agency learns of their occurrence and shall submit written notification to the Office within five working days:

1. Unanticipated permanent or temporary closing of the agency or any part thereof;

2. Any criminal convictions of any staff member involved in the agency's adoption program excluding minor traffic violations;

3. Legal action against the agency or a staff member which involves the operation of the agency or any child under the care of the agency, excluding any legal actions unrelated to agency business;

4. Damage to agency facilities which substantially disrupts the program or the agency's accessibility to clients; or

5. Knowledge of any child placement by any other party which the agency has reason to believe is not permitted by law or by this chapter.

(c) The agency shall notify the Office of Licensing in writing at least 30 calendar days prior to any of the following proposed changes and events, if known:

1. Any plans to reorganize the adoption program that would involve changes in target populations, geographic area, services or eligibility, and the reasons for the changes;

2. Any change in the name, location, executive director, administrator or social work supervisor of the agency; or

3. Any change in the majority of the membership of the governing board within a calendar year.

(d) The agency shall notify the Office of Licensing in writing 90 calendar days prior to the date when the agency expects to suspend or cease operations of the agency's adoption program.

(e) The agency shall notify both the appropriate county prosecutor and the Office of Licensing within three working days of any adoption activity that involves an intermediary that allegedly violates N.J.S.A. 9:3-37 et seq., the State Adoption Law.

(f) The agency shall notify the Office of Licensing in writing of any adoption activity specified in (e) above within five working days of the agency's notification to the county prosecutor.

(g) The agency shall make the following arrangements once a decision to cease its adoption program has been made:

1. Transfer the care and custody of any children in the supervision of the agency to another agency certified by the Department on or before the anticipated date of closing;

2. Transfer responsibility for any other clients, such as adoptive and/or birth parents in the adoption program to another agency certified by the Department on or before the anticipated date of closing;

3. Notify the Office of Licensing of the successor agency within 30 calendar days of closing;

4. Transfer all closed adoption records to a successor private agency certified by the Department. The closing agency shall ensure that such transfers of closed adoption records are implemented within one year after the agency's adoption program ceases to operate;

5. Send to all current adoption clients, including birth parents, adoptive applicants and adoptive parents as well as adult adoptees and relevant agencies with whom the agency is currently working, a letter explaining its decision to cease operation of its adoption program; and

6. Return its certificate to the Office of Licensing.

§ 3A:50-3.6 Agency records

(a) The agency shall:

1. Keep all active records on file at the certified agency office or certified branch office but may store files that are not currently active in a secure facility, with confidential files under lock and key, provided that the records can be accessed in a reasonable amount of time, if needed.

2. Make all records available for inspection within a reasonable amount of time by authorized representatives, as specified in N.J.A.C. 3A:50-2.3(a)4.

3. Ensure that all entries in the child, adoptive family, birth family, and personnel records indicate the name of the individual making the entry, the date of the entry, and that all entries are signed by that individual.

4. Maintain the confidentiality of all information in all client case records, including those of the child, birth parents, foster parents, adoptive parents, adult adoptees, and all other persons residing in the adoptive parents' home, except by court order, as specified in this chapter or by written consent of the specific party.

i. Staff members or persons associated with or working in cooperation with the agency shall not disclose or knowingly permit the disclosure of any identifying information concerning the child, birth parents, foster parents, adoptive parents or adult adoptees to any unauthorized person(s). Authorized persons are:

a) Department representatives involved in child abuse and/or neglect investigations, or as otherwise authorized by statute;

b) Office of Licensing representatives or designees engaged in review activities related to certifications;

c) Staff members of other agencies acting within the scope of their employment;

d) Representatives of adoption agencies or the social welfare or law enforcement agencies exchanging information regarding individuals in the care or legal custody of one of the agencies; and

e) Persons named in court orders for this purpose.

5. The agency may disclose identifying information to bona fide researchers who have received permission from the Commissioner or his or her designee, subject to any restrictions and/or limitations set by the Commissioner or designee, and who agree to maintain the confidentiality of the child, birth parents, foster parents, adoptive parents and/or adult adoptees.

6. The agency shall disclose or permit the disclosure of non-identifying information to the child, adult adoptee, birth parents, foster parents and adoptive parents after verifying the identity of the person making the request.

7. An agency shall supply full information as permitted by these rules to any party involved in an adoption upon request.

8. The agency shall not verify or give to the adoptive parents the names of the birth parents without the written permission of the birth parents, even though the adoptive parents may have learned of the identity of the birth parents before or after the plan for adoption was made.

(b) The agency shall develop, maintain and make available to clients and to the public, upon their request, a written description of its policies and procedures for the following:

1. Eligibility for and provision of services;

2. Contents and maintenance of case records, including confidentiality and access;

3. Client grievances;

4. Rights and responsibilities of the agency and of clients for providing information, access to records, providing services, and payment of fees;

5. Relationship(s) with the courts pertaining to termination of parental rights, custody and guardianship; and

6. Relationship(s) with referring agencies.

(c) The agency shall establish and maintain statistical information on adoption services.

(d) An agency shall maintain case records for each child served and for his or her birth family for 99 years. Certified agencies that work with referring agencies or intermediaries shall make efforts to obtain background information for birth family and child records. These records shall include:

1. Identifying information on the child, including: name according to birth certificate, aliases if any, birthdate, birthplace, sex, race, social security number, national origin, religion, height, weight, color of hair and eyes, identifying marks or any other significant physical characteristics;

2. The name, address, telephone number, birthdate, birthplace, social security number, marital status, race, national origin, religion, and any social, psychological, educational or vocational background information on the birth parent(s), including the putative father or legal guardian(s), if relevant;

3. Name, address, telephone number of a birth family member, or relative to contact in case of emergency;

4. Summary of how the child and adoptive applicant match was made and date of placement and finalization of the adoption;

5. The names, birthdates, and locations of the child's siblings, if any. If the child has siblings, the record shall also include the reason(s) that the sibling(s) were not placed in the same adoptive home;

6. Social, psychological, developmental and educational circumstances including school reports and medical history of the child and copies of any professional recommendations, evaluations or treatment, including the Adoption Medical Information Form pursuant to N.J.S.A. 9:3-41.1(b), or any other required form issued by the Office of Licensing, and a complete medical history of the birth family;

7. Legal documents pertinent to legal custody and guardianship, including birth records, court reports, proof of voluntary relinquishment or termination of parental rights or their equivalent, documentation of custody or guardianship transferred from one certified agency to another or from an official of the United States or any foreign country with authority to place such child for adoption;

8. All written agreements with parents, guardians, legal custodians, or cooperating agencies including but not limited to consent for foster placement and authorization for necessary medical or surgical care and service and financial agreements;

9. Summary reports of social services provided or offered for the child and birth family, including possible alternatives to adoption, pre- and/or post-natal care for the birth mother, temporary care for the birth mother and/or child, reasons for adoption as the plan of choice and birth parent preferences, if any, regarding characteristics of the adoptive family;

10. Summary of how any child placed for adoption has been prepared for the adoption, including, for children 10 years of age or older, a full description of the child's involvement in the process of adoption planning, and preference regarding characteristics of the adoptive family or documentation of the reason(s) for not consulting the child;

11. Record of the birth family's contact with the agency after adoptive placement, including updated addresses and telephone numbers;

12. The specific plan for transporting the child to the adoptive home, if appropriate;

13. All records or documentation pertaining to contacts between the agency and the birth parent, birth family or their legal representative, as specified in N.J.A.C. 3A:50-5.4(a);

14. A signed agreement by the adoptive applicant(s) to notify the agency at the time the family is matched with a birth mother for possible placement of her child or when a child is received in the home for adoption through a source other than a certified agency, so that the supervision of the child can begin. This supervision shall be done by the same agency that conducted the home study. However, at the request of the adoptive applicant(s), the case may be transferred to another certified agency, provided both agencies agree to the transfer; and

15. A signed agreement by the adoptive applicant(s) to provide the agency with an itemized statement of all costs paid and unpaid, and copies of receipts for all costs paid by the adoptive applicant(s) in connection with the adoption, including any adoption-related expenses paid prior to agency involvement.

(e) The agency shall maintain records of home studies of adoptive applicants, who have had a child placed for adoption, for 99 years. These records shall include:

1. Information about the prospective adoptive parent(s) and family, including: name, address, sex, race, birthdate, religion, nationality and citizenship, social security number, educational background, occupation and income, marital status and year of marriage and divorce, if applicable;

2. Information on other members of the immediate family, their names, sex, birthdates, relationship, and addresses, if different from above;

3. Copies of signed service plans and financial agreements;

4. Characteristics of the child, including: age range, sex, social, psychological, physical, developmental and educational circumstances acceptable to the family, including any specific limits to the extent of special conditions acceptable to the adoptive family;

5. Summary documents of the adoption home study of the family which shall be signed and dated by both the social worker who conducted the study and social work supervisor, including any autobiographical or other self-assessment material provided by the family, the basis for the decision to accept or reject the family or to impose any qualifying conditions, an indication that the decision was made jointly by the social worker and social work supervisor, and a record that the family was informed in writing of the decision within 30 calendar days of the last contact with the family;

6. All records or documentation pertaining to contacts between the agency and the adoptive parent(s) or their legal representative, as specified in N.J.A.C. 3A:50-5.6(a);

7. All references, medical reports, and any background checks, including police and fingerprinting checks, and any other verifications or correspondence used by the agency for the study and evaluation of the adoptive family; and

8. A record of each child being placed in the adoptive home, including the full name, summary of how the child was matched with the adoptive family, date of placement, supervisory reports covering the child's and family's adjustment, summary report of placement and recommendation, date and place of finalization, and a record of any contact with the agency after finalization, including updated addresses and telephone numbers.

(f) The agency shall maintain on file records, as specified in N.J.A.C. 3A:50-5.5(b), for each foster family used by the agency in support of the agency's adoption service.

1. These records shall be maintained for the following:

i. Placements that were made before termination of the legal parents' rights; and

ii. Temporary care between intended permanent adoptive placements.

2. Such records shall include documentation that the requirements specified in N.J.A.C. 3A:50-5.5(b) and (c) were met. When a foster family is also the adoptive family, the adoptive family records shall include the content specified in N.J.A.C. 3A:50-5.5(b).

(g) The agency shall maintain the following administrative records in its files:

1. Current copies of all written materials required for certification, as specified in N.J.A.C. 3A:50-2.1(c) and (d). When there are changes or modifications in the agency's policies and procedures, the written materials shall reflect such changes;

2. A current copy of the Manual of Requirements for Adoption Agencies;

3. Copies of other licenses, certificates, accreditations or evaluations of agency operations, program, and facilities;

4. Copies of board meeting minutes; and

5. Copies of general and comprehensive insurance coverage.

(h) An agency shall maintain the following financial records:

1. An annual budget indicating projected revenues and expenses for its adoption program;

2. Policies and procedures governing fees for service, along with fee ranges, if any; and

3. Actual fees paid by clients to or through the agency in connection with adoption services.

(i) The agency shall maintain personnel records on all agency personnel, including paid staff members employed by the agency, paid consultants who provide contracted services, and volunteers and students who have direct contact with clients.

1. The personnel record shall include the following information for each staff member:

i. Name, address, and telephone number;

ii. Resume, or application form, including qualifications, work experience and at least two references;

iii. A listing of any criminal convictions, excluding minor traffic violations;

iv. Annual evaluations of job performance;

v. A description of any adoption-related training and development received;

vi. Dates of employment and separation and reason(s) for leaving; and

vii. Description or statement of amount of time the employee works.

2. The agency shall maintain a personnel record for at least three years following the staff member's separation from the agency.

3. State-operated agencies shall follow policies and guidelines established by the Department for personnel information and information regarding paid consultants in lieu of the information specified in (i)1 and 2 above.

§ 3A:50-3.7 Office facilities

(a) The agency shall provide space that affords privacy for conducting interviews at its office facilities.

(b) An agency that operates in a private home shall provide documentation that the local municipality permits such business use in the home.

§ 3A:50-4.1 General requirements

(a) An agency shall have one social worker for every 35 children under its care or supervision.

(b) An agency shall have at least three full-time staff members or their equivalents in part-time staff members, as specified in N.J.A.C. 3A:50-4.4(a) through (c). Staff members as specified at N.J.A.C. 3A:50-4.4(a) and (b) shall be available at the agency during regular business hours.

1. An agency shall have one executive director or administrator.

2. The executive director or administrator shall not serve as the social work supervisor.

(c) The executive director or administrator and every staff member shall:

1. Be of good character, as evidenced by the agency's application for certification, in accordance with N.J.A.C. 3A:50-2.1(c), and personnel records, as specified in N.J.A.C. 3A:50-3.6(i);

2. Be in sufficient physical, mental and emotional health to perform his or her job duties satisfactorily;

3. Possess skills, attributes and characteristics conducive to and suitable for operating an agency and dealing with children, birth parents and adoptive applicants; and

4. Not engage in or permit any conduct inappropriate to the purposes of the agency.

(d) Upon receipt of an allegation that the executive director, administrator or a staff member may be in violation of any provision in (c) above, the Office of Licensing shall conduct a complaint investigation and provide written notification of the results to the agency, as specified in N.J.A.C. 3A:50-2.6.

§ 3A:50-4.2 Personnel policies

(a) The agency shall develop and maintain on file current written personnel policies and make them available to all staff members. The personnel policies shall be reviewed annually and updated every three years by the agency. The personnel policies shall include:

1. Criteria and procedures for the assignment, supervision, annual performance evaluation, promotion, suspension or dismissal of a staff member;

2. Job specifications outlining the qualifications, duties and accountability for every category of staff member;

3. Procedures for handling staff member complaints or grievances;

4. Provisions for responding to any staff member misconduct that constitutes criminal, unethical, or unprofessional behavior, including sanctions that may be taken by the agency when a staff member fails to notify the agency of a criminal conviction or engages in conduct inappropriate to the purposes of the agency; and

5. A conflict of interest statement indicating the agency shall not use any business that is owned or operated by an employee or in which an employee has a financial interest and shall not use the services of an employee unless the agency can document that the goods or services were obtained at a competitive price.

(b) The agency shall ensure that any staff member or consultant that utilizes the title or designation of social worker, licensed clinical social worker, licensed social worker, certified social worker, medical social worker, social work technician, or any other title or designation that includes the words social worker or social work, or any abbreviations such as SW, LCSW, LSW, CSW, or SWT is certified or licensed pursuant to N.J.S.A. 45:15BB-1 et seq., unless the individual is exempt from certification or licensure as specified in N.J.S.A. 45:15BB-5, or is employed by an out-of-State agency and not providing social work services in New Jersey or to clients in New Jersey.

(c) All out-of-State agencies shall ensure that:

1. Social work staff and social work supervisors are certified or licensed pursuant to that state's laws or requirements, if applicable; and

2. Social work staff and social work supervisors who provide social work services in New Jersey are certified or licensed pursuant to (c) above.

§ 3A:50-4.3 Staff development

(a) The agency shall provide orientation for all new staff members regarding the general administrative, personnel, fiscal and program policies, procedures, and practices of the agency.

(b) The agency shall prepare and maintain on file a written staff development program plan. The plan shall specify major content areas to be covered and agency policy regarding requirements for staff development.

1. The agency shall provide at least eight hours of adoption-related training per year to each professional staff member.

2. The agency shall make staff members aware of specific requirements of this chapter that affect the performance of their duties.

3. The agency shall make staff members aware of the state's child abuse and neglect laws and shall provide for the training of its staff members in reporting procedures under this law.

4. The agency shall provide training to staff members and ensure they are aware of recognizing and preventing child sex and labor trafficking.

§ 3A:50-4.4 Staff qualifications and duties

(a) The executive director or administrator shall work for the agency on a full-time basis (at least 30 hours per week) and have the qualifications and responsibilities as specified below.

1. The executive director or administrator of the agency shall:

i. Have a bachelor's degree from an accredited college or university and three years of professional experience in the human services field, two years of which shall have been in a supervisory or administrative position; or

ii. Have a master's or doctorate degree from an accredited graduate school in business or public administration or in one of the areas of study in the human services field and two years of professional experience in the human services field; or

iii. For public agencies, meet the New Jersey Civil Service Commission requirements for the title used for the function of executive director or administrator of the agency.

2. The executive director or administrator shall be responsible for:

i. Developing, implementing and maintaining policy and procedures for program and fiscal operation;

ii. Ensuring that the agency achieves and maintains compliance with the requirements of this chapter;

iii. Employing, evaluating and discharging staff members, in accordance with the agency's established personnel policies as specified in N.J.A.C. 3A:50-4.2;

iv. Establishing and supervising working relationships with other social service agencies within the community; and

v. Maintaining current social services records and statistics, as specified in N.J.A.C. 3A:50-3.6(c).

(b) The social work supervisor shall work for the agency on a full-time basis (at least 30 hours per week) and have the qualifications and responsibilities as specified below.

1. A social work supervisor shall:

i. Meet the requirements for a licensed clinical social worker or a licensed social worker as specified in N.J.A.C. 13:44G-4.1 and 4.2 and have a minimum of two years of professional experience in services to children and families, one year of which shall be in adoption services; or

ii. Meet the requirements for a certified social worker as specified in N.J.A.C. 13:44G-4.3, and have a minimum of four years of professional experience in services to children and families, two years of which shall be in adoption services. Under this provision, the social work supervisor shall not supervise licensed clinical social workers or licensed social workers; or

iii. For public agencies, meet the New Jersey Civil Service Commission requirements for the title.

2. The social work supervisor shall be responsible for:

i. The supervision, management, training, and evaluation of all social work staff members, students, and consultants;

ii. The supervision of volunteers whose work involves direct contact with clients;

iii. The approval of all decisions regarding family and child eligibility for service, maternity and child care, transportation and placement arrangements, finalization, and any other changes in the child's legal status; and

iv. The implementation of the agency's adoption program(s) and services, and recommendations regarding changes to the program.

3. The social work supervisor shall not act as a caseload carrying social worker.

(c) A social worker and/or a staff member who provides social work services shall work for the agency on a full-time basis (at least 30 hours per week) and have the qualifications and responsibilities as specified below. The agency may choose to utilize part-time staff members in lieu of one full-time staff member, provided that these staff members have the qualifications and responsibilities as specified in (c)1 and 2 below.

1. Each social worker and each staff member who provides social work services shall either:

i. Meet the requirements for a licensed clinical social worker, a licensed social worker or a certified social worker as specified in N.J.A.C. 13:44G-4.1, 4.2 and 4.3 and have a minimum of one year of professional experience in the human services field;

ii. Meet the criteria for exemption from social worker certification or licensure as specified in N.J.S.A. 45:15BB-5; or

iii. For public agencies, meet the New Jersey Civil Service Commission requirements for the title.

2. A social worker and/or a staff member who provides social work services shall be responsible for:

i. The maintenance of up-to-date case records;

ii. The preparation of home studies for adoptive applicants;

iii. The preparation of other case reports as required by the courts, cooperating agencies, or this chapter; and

iv. Direct service provision of any pre-placement, placement, post-placement, or post-adoption services, delivered to children, birth parents, foster parents, adult adoptees, or related parties within the scope of the agency's approved program.

(d) An agency shall arrange for staff members and/or consultants to provide medical, legal, psychiatric, psychological or other professional services to birth parents, children and adoptive parents whose home studies have been approved by the agency.

1. All staff members and/or consultants shall meet the licensing, certification, or practice requirements established for their respective professions in the states and/or country in which they practice.

2. The agency shall not require clients to use medical, legal, psychological, psychiatric or other consultants used by the agency. The agency may use consultants and/or persons selected by agency clients.

(e) Agencies that utilize students for field placements shall have a written plan for using their services.

1. This plan shall describe what services the student is responsible for and what arrangement the agency has for supervising the students.

2. The agency shall give a copy of this plan to each student and his or her school and to the supervising staff members.

(f) An agency may utilize the services of volunteers provided that the agency:

1. Ensures that any volunteer who has direct contact with clients works under the supervision of a professional staff member and does not provide counseling services or make social work decisions unless the volunteer has the qualifications of a social worker, as specified in (c) above.

2. Prepares and maintains on file a written plan and job description for each category of volunteer who has direct contact with clients; and

3. Provides orientation and training to volunteers, as specified in N.J.A.C. 3A:50-4.3(a).

§ 3A:50-4.5 Criminal History Record Information (CHRI) background checks

(a) As a condition of securing and maintaining a certificate, the agency shall ensure that a State and Federal CHRI fingerprint background check, in keeping with N.J.S.A. 9:3-37 et seq., is completed for the executive director and each staff member.

1. If the executive director refuses to consent to or cooperate in a CHRI background check, the Department shall deny, suspend, revoke, or refuse to renew the certificate, as applicable. The agency may appeal the denial, suspension, revocation, or refusal to renew, as specified in N.J.A.C. 3A:50-2.4.

2. If a staff member refuses to consent to or cooperate in a CHRI background check, the agency shall immediately terminate the staff member's employment at the agency.

(b) If any person identified in (a) above has a record of criminal conviction, the Department or its designee shall review the record with respect to the type and date of the criminal offense and make a determination as to the suitability of the person to administer or work at the agency.

(c) A person shall be disqualified from administering or working at the agency, if that person ever committed a crime that resulted in a conviction for:

1. A crime against a child, including endangering the welfare of a child and child pornography pursuant to N.J.S.A. 2C:24-4;

2. Abuse, abandonment or neglect of a child pursuant to N.J.S.A. 9:6-3;

3. Endangering the welfare of an incompetent person pursuant to N.J.S.A. 2C:24-7;

4. Sexual assault, criminal sexual contact or lewdness pursuant to N.J.S.A. 2C:14-2 through 4;

5. Murder pursuant to N.J.S.A. 2C:11-3 or manslaughter pursuant to N.J.S.A. 2C:11-4;

6. Stalking pursuant to N.J.S.A. 2C:12-10;

7. Kidnapping and related offenses including criminal restraint, false imprisonment, interference with custody, criminal coercion, or enticing a child into a motor vehicle, structure, or isolated area pursuant to N.J.S.A. 2C:13-1 through 5 and N.J.S.A. 2C:13-6;

8. Arson pursuant to N.J.S.A. 2C:17-1, or causing or risking widespread injury or damage, which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:17-2;

9. Aggravated assault, which would constitute a crime of the second or third degree pursuant to N.J.S.A. 2C:12-1b;

10. Robbery, which would constitute a crime of the first degree pursuant to N.J.S.A. 2C:15-1;

11. Burglary, which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:18-2;

12. Domestic violence pursuant to N.J.S.A. 2C:25-17 et seq.;

13. Terroristic threats pursuant to N.J.S.A. 2C:12-3;

14. An attempt or conspiracy to commit any of the crimes or offenses listed in (c)1 through 13 above; or

15. In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or offenses described in (c)1 through 14 above.

(d) As an exception to (c) above, the Department may approve the employment at, or administration of, an agency by an individual convicted of a crime specified in (c) above, if all of the following conditions are met:

1. The Department determines that the crime does not relate adversely to the position the individual is employed in pursuant to N.J.S.A. 2A:168A-1 et seq.;

2. The conviction is not related to a crime committed against a child;

3. The agency documents that the individual's employment or administration of the agency does not create a risk to the safety or well-being of children due to the nature and requirements of the position. As necessary, the agency shall identify restrictions regarding the individual's contact with, care or supervision of children;

4. The agency documents that the individual is uniquely qualified for the position due to specific skills, qualifications, characteristics or prior employment experiences; and

5. The Department determines that the individual has affirmatively demonstrated rehabilitation, pursuant to the factors specified in (e) below.

(e) An individual may be eligible to administer or work at the agency if the individual has affirmatively demonstrated to the Department clear and convincing evidence of rehabilitation:

1. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

i. The nature and responsibility of the position at the agency that the convicted individual would hold, has held or currently holds, as the case may be;

ii. The nature and seriousness of the offense;

iii. The circumstances under which the offense occurred;

iv. The date of the offense;

v. The age of the individual when the offense was committed;

vi. Whether the offense was an isolated or repeated incident;

vii. Any social conditions that may have contributed to the offense; and

viii. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs or the recommendation of those who have had the individual under their supervision.

2. Upon receipt of documentation submitted by the agency, indicating why the individual at issue should not be precluded from administering or working at the agency, the Department, after assessing the facts on a case-by-case basis, shall make the final determination regarding the individual's rehabilitation, in keeping with the provisions of the State Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq.

3. The Department shall make the final determination regarding the suitability of the executive director of an agency with a criminal conviction other than those cited in (c) above.

4. For a current or prospective staff member with a criminal conviction other than those cited in (c) above, the executive director of the agency or the agency's board of directors shall make a determination regarding the individual's suitability upon the Department's determination that the individual has affirmatively demonstrated rehabilitation.

(f) If the executive director of an agency or member of the governing board has knowledge that any individual specified in (a) above has criminal charges pending against the individual, the executive director or board member shall promptly notify the Department to determine whether or not any action concerning the individual is necessary in order to ensure the safety of the children.

(g) If the Department is notified that any individual specified in (a) above is convicted of a crime or offense after the CHRI has been completed, the Department shall make a determination whether to suspend or revoke the certificate or require the agency to terminate the individual's employment or service, as applicable.

(h) Upon completion of the CHRI for an individual specified in (a) above, the Department and/or its designee shall notify the individual, and the agency as applicable, in writing, of the individual's qualification or disqualification for employment or service under section 4 or 5 of P.L. 2008, c. 114 (N.J.S.A. 9:3-40.5 and 9:3-40.6).

1. If the individual is disqualified, the convictions that constitute the basis for the disqualification shall be identified in the written notice to the individual.

2. The individual shall have 14 days from the date of the written notice of disqualification to challenge the accuracy of the CHRI.

3. If no challenge is filed or if the determination of the accuracy of the CHRI upholds the disqualification, the Department shall notify the agency that the individual has been disqualified.

4. The agency shall immediately terminate the disqualified individual's employment at the agency.

5. If the disqualified individual is an agency executive director, the Department shall deny, suspend, revoke, or refuse to renew the certificate, as applicable.

(i) An agency that has received an employment application from an individual, or currently employs an executive director or staff member, shall be immune from liability for acting upon or disclosing information about the disqualification or termination of that individual to another agency seeking to employ that individual, if the agency has:

1. Received notice from the Department, its designee, or the agency's board of directors, as applicable, that the applicant, executive director, or staff member has been determined by the Department or the board of directors to be disqualified from employment or service at an agency pursuant to P.L. 1968, c. 282 (N.J.S.A. 2A:168A-1 et seq.); or

2. Terminated the employment of a staff member because the individual was disqualified from employment or service at the agency on the basis of a conviction of a crime pursuant to P.L. 1968, c. 282 (N.J.S.A. 2A:168A-1 et seq.) after commencing employment or service at the agency.

(j) An agency that acts upon or discloses information pursuant to (i) above shall be presumed to be acting in good faith unless it is shown by clear and convincing evidence that the agency acted with actual malice toward the individual who is the subject of the information.

(k) Upon termination or separation of an executive director or staff member, the agency shall immediately notify the Office of Licensing.

§ 3A:50-4.6 Child Abuse Record Information (CARI) background checks

(a) As a condition of securing and maintaining a certificate, the agency shall provide written consent to the Department from the executive director and each staff member for a CARI background check to be conducted.

1. If an executive director refuses to consent to or cooperate in a CARI background check, the Department shall deny, suspend, revoke, or refuse to renew the certificate, as applicable. The agency may appeal the denial, suspension, revocation, or refusal to renew, as specified in N.J.A.C. 3A:50-2.4.

2. If a staff member refuses to consent to or cooperate in a CARI background check, the agency shall immediately terminate the staff member's employment at the agency.

(b) Upon receipt of written consent from an individual specified in (a) above, the Department shall conduct a search of its records to determine if an allegation of child abuse or neglect has been substantiated against the individual, pursuant to N.J.S.A. 9:6-8.11.

1. The Department shall consider incidents of child abuse and neglect that were substantiated on or after June 29, 1995, to ensure that the perpetrator has had an opportunity to appeal a substantiated finding of child abuse or neglect.

2. The Department may consider incidents substantiated prior to June 29, 1995, if the Department, in its judgment, determines that the perpetrator poses a risk of harm to children. In cases involving incidents substantiated prior to June 29, 1995, in which the Department determines that the individual is disqualified, the Department shall offer the perpetrator an opportunity for a hearing to contest the substantiation if a hearing was not previously offered.

(c) If the Department determines that an allegation of child abuse or neglect has been substantiated against an individual specified in (a) above, the agency shall immediately terminate the individual's employment at the agency. If the individual requests an appeal of the substantiated finding, the agency may continue the employment of the individual should the appeal be granted; however, the individual shall not be left alone with a child while the appeal is pending.

(d) If the Department determines that an allegation of child abuse or neglect has been substantiated against an executive director, the Department shall also deny, suspend, revoke, or refuse to renew the certificate of approval, as applicable.

1. The agency may appeal the denial, suspension, revocation or refusal to renew, as specified in N.J.A.C. 3A:50-2.3.

2. If the incident was substantiated prior to June 29, 1995, the Department shall notify the individual in writing that the individual may request a hearing to contest the substantiation.

(e) If the Department determines that an allegation of child abuse or neglect has been substantiated against a staff member, the agency shall notify the staff member in writing that the termination of employment is based on a substantiated allegation of child abuse or neglect. If the incident was substantiated prior to June 29, 1995, the Department shall notify the staff member of the substantiation in writing and advise that the staff member may request a hearing to contest the substantiation.

§ 3A:50-4.7 Background check procedures for New Jersey agencies

(a) Prior to the opening of a new agency located in New Jersey, the agency shall ensure that a request for a Criminal History Record Information (CHRI) background check, as specified in N.J.A.C. 3A:50-4.5, and a Child Abuse Record Information (CARI) background check, as specified in N.J.A.C. 3A:50-4.6, is submitted for each person identified in N.J.A.C. 3A:50-4.5(a) and 4.6(a).

(b) At least 45 days before but no more than 90 days prior to each renewal of a certificate for an existing agency located in New Jersey, the agency shall ensure that a new request for a CARI background check, as specified in N.J.A.C. 3A:50-4.6, is submitted for the executive director and each staff member.

(c) Within two weeks after a new staff member begins employment at an agency located in New Jersey, the agency shall ensure that a request for a CHRI background check, as specified in N.J.A.C. 3A:50-4.5, and a CARI background check, as specified in N.J.A.C. 3A:50-4.6, is submitted for the individual.

(d) An individual shall not be left alone as the only adult accompanying or caring for a child until documentation from the Department showing compliance with a CHRI check and CARI check for the individual has been received by the agency.

§ 3A:50-4.8 Background check procedures for out-of-State agencies

(a) For an agency located outside New Jersey, the agency shall ensure that the executive director and each applicant or staff member meet all applicable laws and regulations in that state governing criminal history record information background checks and child abuse record information checks that may be required as a condition of employment. The agency shall have the results of each criminal history record information background check conducted available for review by the Department.

(b) In the event that criminal history record information background checks and child abuse record information checks are not mandated in that state or country, the agency shall require that the executive director and each applicant and staff member make a disclosure of any criminal conviction. The results of the disclosure shall be made available to the Department, so that the Department can determine the suitability of the individual for employment or service at the agency.

(c) For an agency located outside of New Jersey that hires or contracts with persons providing adoption services in New Jersey, the agency shall meet the CHRI background check requirements specified at N.J.A.C. 3A:50-4.5 and CARI background check requirements specified at N.J.A.C. 3A:50-4.6.

§ 3A:50-5.1 Scope of service

(a) An agency shall provide any or all of the following phases of adoption service:

1. Pre-placement services;
2. Home study services;
3. Placement services;
4. Post-placement services; or
5. Post-adoption services.

(b) An agency that provides a limited range of adoption services shall arrange for other services upon request of the clients.

(c) An agency shall comply with those sections of this subchapter that apply to the phases of adoption service that the agency has chosen to provide.

§ 3A:50-5.2 General requirements

(a) An agency shall maintain on file and make available to its clients information on known resources in the community which may be of use to adoptive parents, birth parents, children and adult adoptees.

(b) An agency shall notify adoptive applicants in writing within five working days when the agency receives information that a country is suspending adoption services and shall not accept any additional clients for assignment of children from that country until such time that adoption services have been re-established.

(c) Before services are provided, an agency shall provide to its adult clients the following:

1. A written description of its current adoption program, including information on the agency's services, the adoption process, including the availability of subsidy for special needs children, and other major referring agencies with whom the agency works; and

2. A verbal explanation of and a written agreement with the agency, describing specific services to be provided, fees to be charged, and rights and responsibilities of both parties.

(d) An agency that plans to place a child with an out-of-State family or to receive a child from out-of-State for placement within the State of New Jersey shall notify the Office of Interstate Services of the Department and shall comply with the laws governing child placement in the other state, where applicable.

(e) An agency shall comply with the requirements of the Federal Indian Child Welfare Act (P.L. 95-608) for placement of Native American children.

(f) An agency that is unable to locate an appropriate adoptive family within 60 calendar days of the date the child was legally freed for adoption shall:

1. Refer the child to the New Jersey Adoption Resource Exchange, or any successor Statewide exchange; and

2. Refer the child to an interstate or national adoption exchange.

(g) An agency may refer a child to any adoption exchange(s) earlier than is required under (f) above.

(h) An agency that has a special needs child in its care for whom the plan is adoption shall document in the child's record its efforts to develop an adoptive placement.

(i) An agency shall ensure access to its services by persons who are physically disabled or handicapped.

§ 3A:50-5.3 Fees and fiscal practices

(a) The agency shall not consider the clients' willingness to donate money, goods or services or to participate in agency fund-raising efforts in determining their eligibility for services.

(b) The agency shall provide equal access to services to all eligible clients without regard to actual or potential donations of money, goods, time or efforts.

(c) The agency shall prepare and maintain on file a written schedule of all fees charged and provide a copy of the schedule to an agency client before service delivery begins. The written schedule shall include indication that comparative fee information can be found on the Office of Licensing's website at http://www.nj.gov/dcf/about/divisions/ol.

(d) The agency shall provide, as specified in N.J.A.C. 3A:50-5.2(b), information to all adoptive applicants on the agency's policies and procedures for the setting, collecting, waiving, and payment of fees. This shall include its policies on refunding money/fees paid by the adoptive applicant(s) to the agency when:

1. An identified service is not rendered;

2. There is a disruption of services;

3. The child identified for adoption is no longer available for adoption;

4. There is a problem with the adoptive applicant(s), such as an illness, a divorce, a loss of job, or other circumstance which would affect the outcome of the adoption; or

5. The agency decides the adoptive applicant(s) is not suitable for adoption.

§ 3A:50-5.4 Services to birth parents

(a) The agency shall document in the case record all contacts with the birth parents, birth family members, or their legal representative that directly pertain to the adoption. All entries shall be signed by the individual making the entry and include the date of the entry.

(b) The agency shall:

1. Be prohibited from requiring the prospective birth parent(s) to sign a statement committing them to any definite plan for the unborn child in order to obtain services;

2. Be prohibited from requiring the birth parent(s) to surrender a child for adoption in order to receive medical services, maternity or residential care, or any other agency service;

3. Ensure that residential facility care, foster home care and/or maternity services that it provides to clients meets applicable state licensing, certification or approval requirements;

4. Encourage the birth mother to reveal the identity and whereabouts of the birth father;

5. Conduct a reasonable search for the birth father, if the name of the birth father is identified and his location is not known. The agency shall take steps including, but not limited to:

i. Sending notice via regular and certified mail to the last known address of the birth father;

ii. Inquiring discreetly among any known relatives, friends, or employers of the birth father;

iii. Making direct inquiry to public agencies that are believed to have information on the whereabouts of the birth father; and

iv. Utilizing available internet resources;

6. Provide the birth father with the opportunity to sign a surrender, a denial of paternity or otherwise exercise parental rights to the child pursuant to N.J.S.A. 9:3-45;

7. At least 20 calendar days before the child's adoption, provide written notification of the impending adoption to:

i. The guardian of a child to be adopted, who has not executed a surrender pursuant to N.J.S.A. 9:3-41;

ii. Any other person who has provided care and supervision in his or her home for the child for a period of six months or half of the life of the child, whichever is less, in the two years prior to the date the complaint was filed in the court by the prospective adoptive parent(s); and

iii. The birth father of the child to be adopted, unless the birth father is not identified or cannot be located after a reasonable search;

8. Inform those persons specified in (b)7 above that they have the opportunity to object to the adoption within 20 days after notice of the adoption is given in accordance with the Rules of Court; and

9. Provide documentation of the agency's compliance with (b)4 through 8 above in the case record.

(c) Before taking a surrender, the agency shall document that the birth parents were:

1. Provided at least three face-to-face counseling sessions conducted in a private and professional setting as specified in N.J.A.C. 3A:50-3.7(a), or at the birth parents' home, by qualified social work staff on separate days and that the birth parents were:

i. Offered counseling that fully:

a) Explores alternatives to adoption;

b) Addresses any presented emotional problems;

c) Includes referrals to mental health agencies when such emotional problems interfere with the birth parents' decision-making regarding adoption; and

d) Explores alternative plans for the child, including, but not limited to, temporary foster care, day care and care by relatives;

2. Informed that only legal parents or legal guardians have the right to custody and control of their child and to surrender their child for adoption;

3. Prepared, along with the child, for surrender and separation;

4. Referred to other community resources when the agency cannot provide needed services;

5. Informed that the agency may contact them in the future if the adult adoptee or adoptive family or emancipated minor requests information or wishes to meet the birth parents;

6. Advised that they may sign a written agreement at any time indicating their willingness to be contacted and/or to provide information if requested by the adoptee or adoptive family;

7. Asked to update and submit to the agency their address(es) and/or any significant medical information required on the Medical Information Form, so that the medical information could be shared with the adoptive family and/or the adult adoptee; and

8. Requested to provide an itemized statement for all adoption-related costs, if any, paid by the prospective adoptive parents prior to agency involvement in the adoption or an affidavit that no money was expended;

9. Requested to sign a statement that indicates either:

i. The agency explained the information in (c)1 above to them; or

ii. They refuse to participate in the counseling sessions; and

10. Asked to sign a statement that indicates the agency explained the provisions of N.J.S.A. 26:8-40.33 and 40.34, which:

i. Allow each adoptee and other approved individuals access to original birth certificates;

ii. Allow each birth parent to submit a document of contact preference to the State Registrar; and

iii. Require each birth parent who submits a document of contact preference to submit a family history form; and

11. Advised how to obtain additional information from the Department of Health.

(d) The agency shall ensure that the birth parents understand the terms of the surrender and realize that the agency will assume custody and will have the right to consent to adoption of the child, pursuant to N.J.S.A. 9:3-41 and 30:4C-23.

1. The agency shall ensure that the full terms of this understanding are delineated in writing, signed and dated by the birth parent(s) and agency and maintained on file.

2. The agency shall ensure that the surrendering parent(s) is given the opportunity to state any preferences that he and/or she may have affecting the selection of adoptive parent(s), including specifying the adoptive parent(s) in a conditional surrender.

3. If the agency accepts a conditional surrender, the agency shall not permit any preferences stated by the surrendering parent(s) to interfere with the agency's authority and responsibility to act in the best interests of the child in selecting adoptive parents and the agency's obligation not to discriminate in the selection of adoptive parents, as specified in N.J.A.C. 3A:50-1.7(b) and (c). If the agency determines that the adoptive parent(s) specified by the surrendering parent(s) cannot be approved, the agency shall either:

i. Return the child to the surrendering parent(s);

ii. Discuss with the surrendering parent(s) an alternate choice of adoptive parent(s) and if they reach an agreement, place the child with the alternate adoptive parent(s); or

iii. If the agency cannot meet the provisions specified in (d)3i or ii above, initiate appropriate action through the court to determine the legal status of the child.

4. The agency shall not take a surrender before the child is 72 hours old.

5. Each surrender shall be acknowledged by an agency representative and shall be notarized. The agency representative and the notary shall not be the same person; however, the notary may be a staff member from the agency.

6. The agency shall document the following:

i. The names of the persons who were present at the time of the surrender;

ii. Where the surrender was taken; and

iii. The agency representative's observation of the birth parents' demeanor and competence during the discussion of the surrender and a statement that the birth parents were not coerced.

7. A valid surrender executed in another state or foreign country by a resident of that state or country shall be deemed a valid surrender for finalization in this State, if taken more than 72 hours after the birth of the child.

8. The agency shall document that birth parents who cannot read English fully understood the meaning of surrender.

9. The agency shall not delay returning a child to a birth parent(s) who decided not to surrender solely because the parent(s) is unable to pay medical and/or other fees.

(e) The agency shall request the court to terminate parental rights where state law provides grounds for termination of parental rights and there is reason to believe that termination of parental rights is necessary for the protection of the child.

(f) The agency shall provide at least one in-person contact with birth parents who request counseling after the child is freed for adoption.

(g) An agency that arranges for, provides directly, finances, or subsidizes the costs of adoption expenses, as specified in N.J.A.C. 3A:50-5.8(l)1viii, of a birth mother shall comply with all of the following:

1. The agency shall maintain on file a written policy that governs payments made on behalf of birth mothers.

i. A copy of this policy shall be given to each birth mother and prospective adoptive parent at the time of initial inquiry or application; and

ii. The birth mother shall be advised in writing, that any services or payments that she may be granted will be made to her without regard to her present or future decision to surrender her child(ren) for adoption and that the agency will not require or request reimbursement from her for such services and/or payments.

2. Unless the birth mother terminates her relationship with the agency, the agency shall notify the birth mother in writing at least 30 calendar days prior to the date of its last services or payments for adoption-related services, that services and/or payments will be terminated by the 30th calendar day following the birth of the child or after the 30th calendar day following the signed release for termination of parental rights for whom adoption services were sought. The agency shall also notify the birth mother in writing within 30 days when the agency documents that the need for such services or payments no longer exists.

3. The agency shall maintain in its case files any receipts, cancelled checks and/or invoices or photocopies of such receipts, cancelled checks and/or invoices as a record of all cash payments that were made on behalf of the birth mother. The agency may utilize a case ledger to record this information provided that copies or actual receipts, cancelled checks and/or invoices are made available to the Office of Licensing upon request.

§ 3A:50-5.5 Pre-placement services to the child

(a) The agency shall complete a comprehensive study for each child evaluated for adoption. The study shall include:

1. A medical examination of the child at birth or at the time when the agency assumed custody and again within 30 calendar days before placement in an adoptive home to determine the child's health and any factors that may interfere with normal development;

2. In addition to (a)1 above, for a child under two years of age, the agency shall provide the adoptive applicant(s) with information regarding medical examinations, medical testing, medical/surgical treatment and immunizations, if any, within 30 calendar days before placement in an adoptive home.

3. Information to the extent available about the child's birth family to determine hereditary factors or pathology that may affect the child's normal development and potentialities as required on forms developed by the Commissioner of the Department of Children and Families, pursuant to N.J.S.A. 9:3-41.1(b);

4. Information on previous placements, if applicable;

5. Any specialized evaluations for a physically and/or mentally disabled child to help better understand the child's strengths and limitations;

6. The child's involvement in the adoption or documentation of the reason(s) for not involving the child; and

7. A careful evaluation of the advisability, in terms of best interest, and feasibility of placing the child together with full or half-siblings whose permanency goal is also adoption or who may have been placed for adoption previously. The agency shall document, in the case record of the child for whom adoption is currently being planned, any contraindicators and/or barriers to the co-placement of siblings, regardless of when they became legally free for adoption.

(b) The agency shall provide foster care services, as necessary, to ensure the health and safety of children who are waiting for legal clearance and/or adoptive placement.

1. The agency shall establish written criteria by which foster parent applicants are eligible to apply to the agency to provide foster care for a child.

i. The agency shall ensure that the criteria apply equally to all applicants.

ii. The agency shall make the criteria available to the Office of Licensing, to all prospective foster parent applicants and, upon request, to any person.

2. Before approving foster parents, the agency shall conduct a home visit and prepare a comprehensive written assessment, including, but not limited to:

i. The name, address, age, occupation, race and ethnic background, education, and religion (if any) of all household members;

ii. Written reports of medical examinations conducted within the past calendar year for all household members. These reports shall indicate that all household members are free of

communicable diseases, including results of laboratory tests or X-rays if ordered by the physician, or other medical impediments to the placement of foster children in the home;

iii. A physician's written statement attesting that the foster parents' health status is such that they are physically capable of providing foster care services;

iv. Three written references that shall be stored in the foster family's record;

v. A written assessment of the family's philosophies on child rearing, discipline, parental roles, and experience with children;

vi. A statement of the agency's assessment of the results of State and Federal Criminal History Record Information (CHRI) fingerprint background checks, as specified in N.J.A.C. 3A:50-4.5;

vii. A statement of the agency's assessment of the results of the Department's Child Abuse Record Information (CARI) background checks, as specified in N.J.A.C. 3A:50-4.6; and

viii. Location and description of physical environment of the residence and neighborhood.

3. When the results of a CHRI reveal a criminal conviction, the agency shall:

i. Disclose the results of the CHRI only to the specific individual on whom the CHRI was conducted; and

ii. Disclose to the foster home applicant(s) the name of the adult residing in the applicant's home who has a criminal conviction, but not disclose to the applicant(s) any other information about the conviction.

4. When the results of a CARI background check reveal a substantiated incident(s) of child abuse or neglect, the agency shall:

i. Disclose the results of the CARI background check only to the individual identified by the Department as the perpetrator of the child abuse or neglect incident(s); and

ii. Disclose to the foster home applicant(s) the name of the perpetrator, if other than the applicant(s), but not disclose to the applicant(s) any other information concerning the incident.

5. Before a child is placed in an approved foster home, the agency shall ensure that the foster parent(s) signed an agreement that specifies the terms and conditions of service and financial remuneration.

6. If a foster home has not been used for a year, the agency shall update the evaluation of the home before placing a child.

(c) An agency that provides foster care services in homes located in New Jersey for children under the auspices of the Department who are waiting for legal clearance and/or adoptive placement shall ensure that such homes comply with the provisions of N.J.S.A. 30:4C-27.3, the Resource Family Parent Licensing Act.

(d) The agency shall give foster parents a telephone number to contact in case of emergency.

(e) The pre-placement services shall be recorded in the child's record, as specified in N.J.A.C. 3A:50-3.6(d).

§ 3A:50-5.6 Home study services

(a) The agency shall document in the case record all contacts with the adoptive applicant(s)or their legal representative, regardless of method of contact, that directly pertain to the adoption. All entries shall be signed by the individual making the entry and include the date of the entry.

(b) The agency shall:

1. Provide social work services throughout the home study to help adoptive applicants decide if adoption is the best plan for them;

2. Establish and maintain on file written criteria by which adoptive applicants are eligible to apply to adopt a child;

3. Ensure that the criteria specified in (b)2 above apply equally to all adoptive applicants; and

4. Make the criteria specified in (b)2 above available to the Office of Licensing, to all prospective adoptive applicants and, upon request, to any person.

(c) The agency shall ensure that each adoptive applicant:

1. Has attained the age of 18 years and is at least 10 years older than the child being adopted. If the adoptive applicant is not 10 years older than the child to be adopted, the agency may petition the court to waive the requirement; and

2. Has the capacity to meet the child's physical and emotional needs.

(d) The agency shall also ask adoptive applicants to disclose any history of child abuse or neglect or any criminal record, excluding minor traffic violations.

(e) The agency shall advise the adoptive applicants of the home study process, including the length of time involved. The home study process shall include the following:

1. The agency shall hold at least three in-person contacts on separate days. The agency shall conduct joint and individual interviews with married adoptive applicants. The agency may conduct a joint interview and an individual interview with each spouse on the same day. The agency may count joint interviews with spouses as separate in-person contacts for each spouse. The agency shall conduct no more than one individual interview with an adoptive applicant in a single day. The agency may use home study groups and count each group meeting as separate in-person contacts with married adoptive applicants provided that:

i. No more than 10 adoptive applicants per each group facilitator are in the group;

ii. The person facilitating the group meets the education and experience requirements for the social worker as specified in N.J.A.C. 3A:50-4.4(c); and

iii. The person facilitating the group maintains a record/notes of the discussions that occurred during group;

2. At least one in-person contact to conduct joint and individual interviews with all members of the adoptive applicant's household. These contacts may be held on the same day as the contacts for the married adoptive applicants;

3. At least one visit to the residence of the adoptive applicant(s);

4. A review of the adoptive applicant's current job reference(s).

i. If the adoptive applicant states that a request for a current job reference will jeopardize the adoptive applicant's employment status, the agency shall obtain a reference from a previous employer.

ii. If a previous employer is not available, the agency shall obtain a reference from an appropriate alternative, such as a former teacher or the adoptive applicant's supervisor of a volunteer activity; and

5. A review of three personal references from persons unrelated to the adoptive applicant(s):

i. The agency shall obtain at least one reference who has known the adoptive applicant for five years.

ii. The agency shall obtain at least one reference from a neighbor of the adoptive applicant(s). However, if such a reference cannot be obtained, a second reference as specified in (e)5i above may be substituted.

iii. Adoptive applicants from the same household may obtain the same personal reference, provided that the personal reference source has knowledge of each adoptive applicant.

(f) The agency shall obtain information on the adoptive applicants. Such information shall include, but not be limited to:

1. Identifying information such as: name, address, age, occupation, citizenship, race and ethnic background, education, social security number, religion (if any), and children in the home;

2. A description of each adoptive applicant's awareness and sensitivity to special issues that adopted children need to resolve, including the child's identity, attitudes toward birth parents and circumstances of the child's availability for adoption;

3. The family's recognition of the importance of and the family's plans for helping the child accept being adopted;

4. Adoptive applicants' interests, hobbies, child caring skills, strengths and weaknesses, and how they see themselves and each other;

5. Philosophies on child rearing, discipline, parental roles, experience with children;

6. Emotional stability and maturity of the adoptive applicant(s), including understanding of, and ability to cope with, problems, stress, frustration, crisis, separation and loss, capacity to give and receive affection, and ability to distinguish between their needs and those of the child;

7. State of their marital, civil union or domestic partner relationship, decision making, communication, roles in the family and how they handle differences of opinion, if relevant;

8. The attitudes of other members of the family and of significant other persons involved with the family towards the adoption, description of them as individuals and how they interact as a family, and adjustment of other children in the family;

9. Each adoptive applicant's family life history that includes: childhood experiences, what his or her home life was like, his or her parents' method of discipline and handling problems, his or her family ties, current family relationships, and relatives' attitudes towards adoption;

10. Each parent's agreement not to use excessive corporal punishment as a means of discipline or otherwise engage in abusive or neglectful behavior pursuant to Title 9 of the New Jersey Statutes Annotated;

11. Written medical reports on each adoptive applicant and all other persons living in the home that include health, results of laboratory tests or X-rays if ordered by the physician, and the physician's recommendation on the adoptive applicant's health status, as it relates to the adoptive applicant's capacity to be an adoptive parent;

12. Verifications of present or previous marriage(s) and divorce(s) of each adoptive applicant, including deaths of former spouses when there was no divorce;

13. A statement of the agency's assessment of the results of State and Federal Criminal History Record Information (CHRI) fingerprint background checks, as specified in (g) below;

14. A statement of the agency's assessment of the results of Division of Child Protection and Permanency Child Abuse Record Information (CARI) background checks, as specified in (n) below;

15. Location and description of physical environment of the residence and neighborhood;

16. Statement of income and financial resources, and a description of the adoptive applicant's capacity to manage finances;

17. A description of the type(s) of children the adoptive applicants can accept, including age range, sex, sibling groups and physical, social, emotional or developmental disabilities in the child;

18. A description of any background problems in each of the adoptive applicant's family of origin, such as medical or hereditary problems, incest, mental illness, or drug use; and

19. A description of the adoptive applicant's capacity to make viable child care arrangements while the adoptive applicant(s) is employed, if relevant.

(g) As part of the home study, the agency shall obtain Criminal History Record Information (CHRI) fingerprint background checks on each adoptive applicant and all persons residing in the adoptive applicant's home who are 18 years of age or older, except as specified in (2) below. For the purposes of processing requests for CHRI fingerprint background checks, the agency shall ensure that:

1. The identity of each adoptive applicant and each adult who resides in the adoptive applicant's home is verified through a valid driver's license with photograph, a valid passport or other government-issued picture identification;

2. Fingerprints are obtained utilizing the electronic fingerprinting process through the vendor authorized by the State to conduct CHRI background checks through the Division of State Police in the Department of Law and Public Safety and the Federal Bureau of Investigation, except as specified in (h) and (i) below;

3. A list is maintained of all adoptive applicants and adults who reside in the adoptive applicant's home who are fingerprinted;

4. All required fees for electronic fingerprinting are submitted by the adoptive applicants to the vendor authorized by the State to conduct CHRI background checks through the Division of State Police in the Department of Law and Public Safety and the Federal Bureau of Investigation;

5. All correspondence involving individual fingerprints or the results of the CHRI is marked "Confidential";

6. A record of the results of the CHRI and the date the results are received by the agency is maintained in the adoptive applicant's case record; and

7. When the results of a CHRI reveal a criminal conviction, the agency:

i. Discloses the results of the CHRI only to the specific individual on whom the CHRI was conducted; and

ii. Discloses to the adoptive applicant(s) the name of the adult residing in the adoptive applicant's home who has a criminal conviction, but does not disclose to the adoptive applicant(s) any other information about the conviction.

(h) An agency providing services to an adoptive applicant residing in a state other than New Jersey shall obtain the CHRI background check for the applicant and adult members of the applicant's household from the state where the applicant resides, in lieu of obtaining a New Jersey State CHRI, provided that:

1. The agency obtains the Federal CHRI background check for the individual; and

2. The agency documents that the individual never resided in New Jersey.

(i) An agency providing services to an out-of-State resident who previously resided in New Jersey, or to a New Jersey resident who is unable to access the electronic fingerprinting process due to illness or injury, shall obtain the CHRI background check using the fingerprint cards supplied by the Department of Children and Families.

1. Such fingerprints may be taken:

i. At the adoption agency by trained agency staff or by a trained person who is hired or volunteers to take fingerprints on behalf of the agency;

ii. At the local police station; or

iii. By trained staff of another adoption agency, as part of a cooperative effort.

2. The completed fingerprint cards and required fees shall be submitted to the Department or its designee.

(j) A public adoption agency shall disqualify an adoptive applicant if the adoptive applicant or any adult residing in the adoptive applicant's household was convicted of one of the following crimes or offenses:

1. A crime against a child, including endangering the welfare of a child and child pornography pursuant to N.J.S.A. 2C:24-4; or child abuse, neglect or abandonment pursuant to N.J.S.A. 9:6-3;

2. Murder pursuant to N.J.S.A. 2C:11-3 or manslaughter pursuant to N.J.S.A. 2C:11-4;

3. Aggravated assault, which would constitute a crime of the second or third degree pursuant to N.J.S.A. 2C:12-1b;

4. Stalking pursuant to N.J.S.A. 2C:12-10;

5. Kidnapping and related offenses, including criminal restraint; false imprisonment; interference with custody; criminal coercion; or enticing a child into a motor vehicle, structure or isolated area pursuant to N.J.S.A. 2C:13-1 through 6;

6. Sexual assault, criminal sexual contact or lewdness pursuant to N.J.S.A. 2C:14-2 through 4;

7. Robbery, which would constitute a crime of the first degree pursuant to N.J.S.A. 2C:15-1;

8. Burglary, which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:18-2;

9. Domestic violence pursuant to N.J.S.A. 2C:25-17 et seq.;

10. Endangering the welfare of an incompetent person pursuant to N.J.S.A. 2C:24-7 or endangering the welfare of an elderly or disabled person pursuant to N.J.S.A. 2C:24-8;

11. Terrorist threats pursuant to N.J.S.A. 2C:12-3;

12. Arson pursuant to N.J.S.A. 2C:17-1, or causing or risking widespread injury or damage, which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:17-2; or

13. An attempt or conspiracy to commit an offense specified in (j)1 through 12 above.

(k) A public adoption agency shall disqualify an adoptive applicant if the adoptive applicant or an adult residing in the adoptive applicant's household was convicted of one of the following crimes or offenses, and the date of release from confinement (the date of termination of court-ordered supervision through probation, parole, or residence in a correctional facility, whichever date occurs last) occurred within the preceding five years:

1. Simple assault pursuant to N.J.S.A. 2C:12-1a;

2. Aggravated assault which would constitute a crime of the fourth degree pursuant to N.J.S.A. 2C:12-1b;

3. A drug-related crime pursuant to the Comprehensive Drug Reform Act, N.J.S.A. 2C:35-1 et seq.;

4. Robbery which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:15-1;

5. Burglary which would constitute a crime of the third degree pursuant to N.J.S.A. 2C:18-2; or

6. An attempt or conspiracy to commit an offense specified in (k)1 through 5 above.

(l) For a public adoption agency when the conviction is for a crime or offense other than those specified in (j) and (k) above, and for a private adoption agency for a conviction for any crime or offense, the agency shall utilize the following criteria for assessing the suitability of the adoptive applicant when the CHRI reveals a record of criminal conviction by the adoptive applicant or an adult residing in the adoptive applicant's household. The agency shall:

1. Examine the nature and seriousness of the crime and the date it occurred. Special attention shall be given to crimes of violence, crimes that involve the use or threat of a weapon, rape/sexual assault, crimes that result in the loss of life and crimes against children;

2. Discuss the circumstances of the crime with the convicted individual, in a confidential manner as specified in (g)7 above;

3. Assess whether the age of the convicted individual at the time the crime was committed is a relevant factor;

4. Take into consideration whether the crime was an isolated or repeated incident;

5. Assess whether there were social conditions/extenuating factors involved that may have contributed to the crime or mitigated the convicted individual's culpability; and

6. Determine whether the convicted individual completed a rehabilitation program, including a prison sentence, stays in a half-way house, treatment received in a drug treatment facility, treatment received in a psychiatric hospital or counseling received in the community. If such evidence exists, the agency shall assess whether the convicted individual has been rehabilitated and shall consider such rehabilitation in making a determination; and

7. Inform the Office of Licensing of its assessment of the suitability of the adoptive applicant(s).

(m) The CHRI background checks specified in (g) and (h) above shall be valid for 12 months from the date the results are received by the agency.

(n) The agency shall obtain Child Abuse Record Information (CARI) background checks from the Department on each adoptive applicant and all persons residing in the adoptive applicant's home who are 18 years of age and older, except as specified in (n)5 below. The agency shall ensure that:

1. CARI background check forms supplied by the Department are completed and signed by the adoptive applicant(s) and other adult(s) residing in the adoptive applicant's home and submitted along with a fee of $ 10.00 for each CARI background check, in the form of a check or money order made payable to the "Treasurer, State of New Jersey," to the address designated by the Department;

2. All correspondence between the agency and the Department involving CARI background check forms and related information is marked "confidential";

3. When the results of a CARI background check reveal a substantiated incident(s) of child abuse and/or neglect, the agency:

i. Discloses the results of the CARI background check only to the individual identified by the Department as the perpetrator of the child abuse and/or neglect incident(s); and

ii. Discloses to the adoptive applicant(s) the name of the perpetrator, if other than the adoptive applicant(s), but does not disclose to the adoptive applicant(s) any other information concerning the incident;

4. As part of the home study, the agency utilizes the following criteria for assessing the suitability of the adoptive applicant(s) when the CARI background check reveals that the adoptive applicant(s) or adult(s) residing in the home has a record of a substantiated incident(s) of child

abuse and/or neglect. Utilizing the results of the CARI background checks and through contacts with the adoptive applicant(s), the agency shall:

i. Examine the nature and seriousness of the abuse and/or neglect incident(s) and the date(s) it occurred, with particular concern for incidents of sexual abuse and abuse or neglect that resulted in the death or serious injury of a child;

ii. Discuss the circumstances of the abuse and/or neglect incident(s) with the adoptive applicant(s) or adult(s) residing in the home in a confidential manner as specified in (n)3 above;

iii. Assess whether the age of the perpetrator at the time the abuse and/or neglect incident(s) occurred is a relevant factor;

iv. Take into consideration whether the incident(s) of abuse and/or neglect was an isolated or a repeated incident;

v. Assess whether there were circumstances or extenuating factors involved that may have contributed to the incident(s) of abuse and/or neglect or mitigated the perpetrator's culpability; and

vi. Determine if the perpetrator has completed a rehabilitation program or counseling program. If such evidence exists, the agency shall make an assessment whether the perpetrator has been rehabilitated and shall consider such rehabilitation in making a determination;

5. For an adoptive applicant residing in a state other than New Jersey, the agency obtains a child abuse background check for the adoptive applicant and adult members of the adoptive applicant's household from the state where the adoptive applicant resides, in lieu of obtaining a New Jersey CARI check, provided that the agency documents that the individual never resided in New Jersey. For individuals who previously resided in New Jersey, the agency shall obtain both a New Jersey CARI check and a child abuse background check from the state where the adoptive applicant resides. For individuals who previously resided in a state other than New Jersey and currently reside in New Jersey, the agency shall obtain both a New Jersey CARI check and a child abuse background check from the state where the adoptive applicant previously resided; and

6. The agency maintains the results of the CARI background check and/or child abuse background check from another state in the adoptive applicant's file.

(o) The CARI background checks specified in (n) above shall be valid for 12 months from the date the results are received by the agency.

1. If a child is not placed in the adoptive applicant's home within 12 months, the agency shall obtain an additional CARI background check as specified in (n)2 above, for each adoptive applicant and all persons residing in the adoptive applicant's home who are 18 years of age and older, prior to placement of a child in the adoptive applicant's home.

2. The agency shall maintain the results of the additional CARI background checks in the adoptive applicant's file.

(p) The home study shall not be shared with any person, parent, adoptive applicant or agency until it has been completed. The home study shall be considered complete when it contains all information specified in (g) through (n) above.

(q) When an employee or consultant is adopting a child through the agency he or she works for or provides services to, the employee or consultant shall obtain a home study from another certified agency.

(r) The agency shall not place a child in the adoptive applicant's home for the purpose of adoption without a completed home study.

(s) After the home study has been conducted, the social worker who conducted the study and the social work supervisor shall co-sign a letter to the adoptive applicants or otherwise indicate in writing that the approval or rejection decision was made jointly.

1. The agency shall make the approval or rejection decision after carefully assessing all the information obtained during the home study.

2. The agency shall inform the adoptive applicant(s) of its decision in writing within 30 calendar days after the last contact with the adoptive applicant(s).

i. When an adoptive applicant is approved, the agency shall recommend to the adoptive applicant the type(s) of child(ren) who can best adjust to the family and to whom the family can best adjust. When the agency's recommendation of the type(s) of child(ren) to be considered for adoption is different from the adoptive applicant's initial preference for a certain type(s) of child(ren), the agency shall document in the adoptive family record the results of the discussion between the social worker and the adoptive applicant on this point.

ii. When the adoptive applicant pursues a child(ren) different from the type(s) of child(ren) recommended by the agency, the agency shall reevaluate the home study to determine if the adoptive applicant can be approved for the type of child he or she is seeking.

iii. When an adoptive applicant is not accepted, the agency shall:

a. Explain to the adoptive applicant the reason(s) that a child cannot be placed with the family;
b. Offer the adoptive applicant at least one in-person contact to help the adoptive applicant adjust to the agency's decision; and
c. Provide the adoptive applicant information, both verbally and in writing, of the agency's grievance procedure.

(t) Upon receipt of a written request from adoptive applicants who have undergone a home study for a foreign adoption, the agency shall forward to the adoptive applicants the home study within 30 calendar days of the request.

(u) For adoptive applicants who have been studied, approved, and placed on a waiting list for longer than 12 months from the time their home study was approved, the agency shall ensure that the home study is current within 12 months of the child's being placed into the home, except for home studies for foreign adoption, which may be current for 18 months of the child's being placed in the home. The updated home study shall include:

1. One or more interviews with all members of the adoptive applicants' household;

2. Medical reports within the past year for all members of the adoptive applicants' household;

3. A visit to the residence of the adoptive applicant(s); and

4. Updated financial information, as specified in (f)16 above.

(v) For adoptive applicants who are being considered for adoption of one or more additional children, the agency shall:

1. Update the home study as specified in (u) above; and

2. Evaluate the adjustment status of the previously placed child(ren) with the family.

(w) For a stepparent adoption, a CHRI shall not be required for household members 18 years of age and older who are related to the birth parent.

(x) The Criminal History Record Information (CHRI) fingerprint background check and the Child Abuse Record Information (CARI) background check conducted on an adoptive parent(s) whose child's adoption in a foreign country is recognized by the United States government shall be valid for such adoptive parent(s) when seeking a readoption in New Jersey.

(y) A New Jersey State Police fingerprint background check, as specified in N.J.A.C. 3A:50-5.6(g), shall be obtained by the agency for an adoptive parent(s) seeking adoption in New Jersey for a child whose adoption in a foreign country is not recognized by the United States government. The agency shall also meet the following requirements:

1. A home study shall be conducted, except that a Federal fingerprint background check shall not be required; and

2. The agency shall maintain the results of the New Jersey State Police fingerprint background check in the file of the adoptive parent(s).

§ 3A:50-5.7 Placement services

(a) The agency shall have responsibility for the selection of approved adoptive parents for a child upon successful completion of a home study as specified in N.J.A.C. 3A:50-5.6.

1. The agency shall not place a child for adoption before documenting in the child's record the reason(s) for placing the child with the adoptive family.

2. The agency shall document in the child's record efforts to place siblings together in the same adoptive home; if a child is not to be placed together with siblings who are also legally free or who were adopted previously, the agency shall document in the child's record at the time of placement the reasons that co-placement was not in the child's interest or the factors that made co-placement unfeasible.

3. The agency shall give the adoptive parent(s) a written explanation of their rights and responsibilities regarding the child during the supervision period. Such information shall include, but not be limited to, areas of medical care, financial responsibilities, travel outside the state and any areas where the law requires the consent of a parent or guardian.

4. In instances where an agency that is not certified by the Department is involved with a Department-certified agency, both agencies shall share information and reach a mutual decision on each adoptive placement.

5. The agency shall not disqualify any adoptive parent(s) rejected for a particular child from being considered for the adoption of another child, unless basic conflicts about adoption and/or parenting style are revealed, or the adoptive parent(s) are unable to accept the children who are available for adoption through the agency.

(b) The agency shall provide the following information to adoptive parent(s):

1. A written history of the child, including developmental and medical history and reason(s) for surrendering the child. If the child has special needs, the agency shall provide the adoptive applicant(s) with an assessment of the child's long-term needs, along with written information about the availability of subsidy and a list of community resources that provide services to address the child's needs;

2. An explanation that the adoptee may ultimately wish to seek information contained in the permanent record concerning his or her birth family and may in the future attempt to contact the birth family;

3. An explanation that the agency may contact the adoptive parent in the future to convey updated information about the adoptee's birth family; and

4. An explanation of N.J.S.A. 26:8-40.33, which allows adoptees and other approved individuals to have access to original birth certificates and direction on how to obtain additional information from the Department of Health.

(c) The agency shall comply with the following escort and/or transportation requirements:

1. An agency engaged in transporting children for adoption shall ensure that adoptive parents or other escorts who accompany children from a referring agency to their adoptive families are informed of the child's medical needs;

2. An agency that provides or arranges for escort transportation service for children as part of its adoption program shall ensure that no child is left unattended during any portion of the trip to the adoptive family, unless the agency documents in the child's record that the child is physically and emotionally capable of traveling independently;

3. Persons providing children's escort services for an agency shall have a written statement from the agency describing their respective authority and responsibilities and shall carry proper identification, including their name and the agency's name while performing their duties.

4. The agency shall provide escorts with emergency information, names, telephone numbers and appropriate medical supplies and shall arrange for the safe and expeditious transfer of children to their adoptive parent(s) upon arrival.

5. The agency shall require proof of identification by any person accepting temporary or permanent responsibility for the child's arrival; and

6. The agency shall document the escort and/or transportation plan in the child's record.

§ 3A:50-5.8 Post-placement services

(a) In keeping with the supervision requirements specified at N.J.A.C. 3A:50-3.6(d)14, the agency shall:

1. Visit the home within 14 calendar days of the adoptive placement after the first day of placement, and document in the child's record that:

i. The child's background information was reviewed with the adoptive parent(s);

ii. The adoptive parent(s) and child were given reassurance that their feelings, worries and joys are natural and understandable;

iii. School age children are in compliance with the compulsory education requirements at N.J.S.A. 18A:7B-1 et seq.; and

iv. Working parent(s) have made child care arrangements.

(b) For interstate adoptions when there is a delay in the adoptive family returning home with the child, the agency shall:

1. Maintain verbal contact with the family upon placement and visit the home within 14 calendar days of the family's return; and

2. Document in the child's record all required information as specified at (a)1i through iv above.

(c) For children under five years of age, the agency shall:

1. Conduct bi-monthly home visits after the first visit for at least six months, except when the adoption is delayed past the six month supervisory period because the court has a backlog of cases. In these instances, the agency may conduct office visits on a quarterly basis instead of home visits until the adoption has been finalized.

2. Document in the child's record that all members of the adoptive family's household were interviewed during the placement supervision period; and

3. Document in the child's record that the following issues were discussed:

i. How the presence of the child changed the lifestyle and marital, civil union, domestic partnership and/or sibling relationships and how the child and extended family view each other;

ii. What role each family member has assumed regarding child care and discipline; and

iii. How parents cope with demands of a crying infant and/or a child who "tests" the placement and how the family reacts to these episodes including any feelings of insecurity about doing the "right" thing.

(d) For children age five or older, the agency shall:

1. Conduct monthly home visits during the minimum supervisory six-month period, and then bi-monthly home or office visits until the adoption is finalized, if the court has a backlog of cases;

2. Document in the child's record that the child was interviewed privately about his feelings about the adoption at each supervisory visit; and

3. Document in the child's record that the following issues were discussed:

i. How the presence of the child changed the lifestyle and marital, civil union, domestic partner and/or sibling relationships and how the child and extended family view each other;

ii. What role each family member has assumed regarding child care and discipline;

iii. How the child "tests" the placement and how the family reacts to these episodes, including any feelings of insecurity about doing the "right" thing;

iv. How the family perceives the child's sense of identity and the need to fill in gaps in the child's history;

v. How the child has adjusted to the school environment; and

vi. Document in the child's record that all members of the adoptive family's household were interviewed during the placement supervision period.

(e) The agency shall ensure that consents are not signed before the completion of the six month supervision period and all required supervision visits have occurred, as specified in (c)1 and (d)1 above. For adoptions finalizing in another state or country with a shorter supervision period or requiring fewer post-placement visits than New Jersey, the agency shall make and document all efforts and attempts to secure the adoptive family's agreement to comply with the New Jersey post-placement schedule.

(f) If a child under two years of age is in an adoptive home for more than one year without the adoption being finalized, the agency shall document to the Office of Licensing in writing the reason(s) that the adoption has not been finalized. Such information shall be provided no later than 30 calendar days after the one-year adoptive placement supervision period has ended.

(g) If a child over two years of age is in an adoptive home for more than two years without the adoption being finalized, the agency shall document to the Office of Licensing in writing the reason(s) that the adoption has not been finalized. Such information shall be provided no later than 30 calendar days after the two-year adoptive placement supervision period has ended.

(h) The agency shall remove the child only if his or her security and well-being are impaired or his or her needs are no longer served by the adoptive placement.

(i) The adoptive parents may request the removal of the child if they decide that they no longer want to adopt the child.

(j) The Division may remove a child where there is reason to believe that the child has been abused or neglected and that the continued placement with the adoptive family poses a serious or irremediable risk to the child pursuant to N.J.S.A. 9:6-8.9, 8.10, 8.13 and 8.14.

(k) When a child is removed from an adoptive placement, the agency shall:

1. Place the child in another adoptive home or make other suitable living arrangements for the child;

2. Document how the child was assisted with separation;

3. Offer counseling consisting of at least two in-person contacts with the former adoptive parents; and

4. Offer supervision and/or consultation to the social worker responsible for the child removed from the adoptive home.

(l) The agency shall cooperate with the adoptive parents and/or the attorney, if any, retained by the adoptive parents to finalize the adoption.

1. The agency shall provide all information and documents needed to finalize the adoption pursuant to N.J.S.A. 9:3-37 et seq. and shall file a written report to the court at least five calendar days before the hearing. This information shall include:

i. The name and age of each adoptive parent and the relationship, if any, of each adoptive parent to the child to be adopted;

ii. The name, age and birthplace of the child to be adopted, and whether any or all of this information is unknown to the adoptive parents;

iii. The certified agency or other source from which the adoptive parents received the child to be adopted;

iv. The circumstances surrounding the surrender of the child to the agency;

v. The results of the agency's evaluation of the child and of the adoptive parent(s), including a description of the care being received by the child and the adjustment of the child and parent(s) as members of a family, and a summary statement of the agency's recommendation to the court regarding finalization;

vi. A full description of all property belonging to the child to be adopted;

vii. The name by which the child to be adopted will be known; and

viii. An itemized statement of all fees and costs paid by the adoptive applicants in connection with the adoption. Such costs shall include expenses related to any of the following:

a) Payment, provision or reimbursement to a parent for medical expenses, reasonable living expenses, shelter, and religious, psychological, vocational, or similar counseling services;

b) Application and home study costs;

c) Pre-adoptive care of the child, whether in foster, group, residential or institutional care;

d) Costs related to the child's placement, including transportation and escort costs;

e) Costs related to post-placement supervision; and

f) Finalization costs and other associated legal expenses.

2. If the agency's report to the court contains any material findings or recommendations adverse to the adoptive parent(s), the agency shall serve a copy of the report to the adoptive parent(s) at least five working days before the hearing.

3. The agency shall solicit and consider the child's wishes concerning adoption.

4. The agency shall ensure that any child who is age 10 or older is present at the finalization hearing unless the child's presence is waived by the court.

§ 3A:50-5.9 Post-adoption services

(a) After the child has been legally adopted, the agency shall provide the opportunity for the clients to return voluntarily to the agency for services relating to adoption only after verifying the identity of the person making the request.

(b) An agency shall provide the following post-adoption services:

1. Storing updated information provided by the birth parent(s), adoptee or adoptive parent(s) with the medical information form, as specified in N.J.A.C. 3A:50-3.6(d)6;

2. Upon request and if available, adoptive applicants, birth parents, and adult adoptees shall be provided with written information on the non-identifying characteristics and background of the adoptee and the adoptee's birth family. This information shall include, but not be limited to:

i. Age or date of birth;

ii. Circumstances surrounding the placement;

iii. Religion;

iv. Education;

v. Nationality and ethnic background;

vi. Employment history;

vii. Medical history; and

viii. Talents or hobbies.

3. Information about and referral to community resources, such as other counseling services, support groups, adoption registries, or sources of personal information that may be useful to adoptees, birth parents, or adoptive parents, or their relatives.

(c) An agency should counsel members of the birth family, adoptive family, or minor and adult adoptees in the following situations:

1. When there is continued interest in background information about any other party involved in the adoption; or

2. When any party involved in the adoption is having difficulty in personal or social adjustment to the extent that it is related to the adoption.

(d) For a foreign adoption, as specified at N.J.A.C. 3A:50-1.5(b)2, the agency shall conduct at least one visit to the home within 30 days after the child has entered the United States with the adoptive family and shall comply with each country's supervision and visitation requirements and relevant requirements of the Hague Convention on Intercountry Adoption and the Intercountry Adoption Universal Accreditation Act of 2012, 42 U.S.C. §§ 14922 et seq., when the child has entered the United States with the adoptive family.

§ 3A:50-5.10 Searches

(a) An agency that conducts searches on behalf of adult adoptees, birth parents when the adopted child is 18 years of age or older, or adoptive parents when the child is under 18 years of age, shall establish a written policy that outlines the procedures regarding confidentiality as specified in N.J.A.C. 3A:50-3.6(a)1 through 4 and the extent to which searches are conducted. This policy shall also include a fee schedule for conducting the search and time frames for completing a search.

(b) A search shall include, but not be limited to:

1. A review of the agency record for background information on the birth or adoptive family, including:

i. The last known address;

ii. Names of the male and female members;

iii. Social Security numbers;

iv. Occupations and addresses of places of employment;

v. Military services, if known;

vi. Clubs or union affiliations, if known;

vii. Names of each school and college attended, if known; and

viii. Dates and places of marriages and deaths.

(c) When the information in the agency record is sufficient to complete a search, the search shall also include:

1. A review of current telephone listings available in print or online on a Statewide basis, and a review of previously published telephone listings available in print or online on a Statewide basis, if accessible, utilization of available internet resources, or utilization of a telephone information service or online person search service provided that the adult adoptee, birth parents, or adoptive parents agree to such a service;

2. Sending a "blind" letter to the Social Security Administration for subsequent mailing to family members;

3. Contacting military, union, employment, and club affiliation;

4. Contacting high school or college alumni offices;

5. Contacting professional licensing boards;

6. Contacting the church where the adopted child was christened or baptized;

7. Contacting the local post office to check old addresses;

8. Contacting cemeteries, when the records indicate a deceased family member;

9. Contacting the local library or town hall to check on voter registration information;

10. Checking tax or real estate records; and

11. Sending letters to the last known addresses of all family members.

(d) The agency shall document and maintain on file all the aspects of a search as specified in (b) and (c) above that were undertaken on behalf of the adult adoptees, birth parents or adoptive parents.

(e) The agency shall provide a handbook or pamphlet to each adult adoptee, birth parent, and adoptive parent that outlines the range of services that may be included in a search, the confidentiality rights and responsibilities of all parties that are involved in the search and the costs associated with the search.

Title 3A, Chapter 51 -- Manual of Requirements for Resource Family Parents

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 30:4C-4(h), 30:4C-26a, and 30:4C-27.15.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2012 d.057, effective February 13, 2012 (operative September 19, 2012).

See: 43 N.J.R. 547(a), 44 N.J.R. 670(a).

Amendments effective August 5, 2019.

Chapter 51, Manual of Requirements for Resource Family Parents, was recodified from N.J.A.C. 10:122C, Manual of Requirements for Resource Family Parents, by administrative change, effective January 3, 2017. As part of the recodification, attendant technical changes were made to the rule text concerning cross-references, agency names, addresses, etc. See: 49 N.J.R. 98(a).

§ 3A:51-1.1 Authorization to be a resource family parent

(a) A person shall not provide resource family care to a child in placement unless the person is licensed by the Office of Licensing.

(b) In order to be licensed, a person shall demonstrate to the satisfaction of the Department of Children and Families that he or she complies with all applicable provisions of this chapter. The provisions of this chapter constitute minimum baseline requirements below which no home that is subject to the authority of N.J.S.A. 30:4C-27.3 et seq., and 30:4C-4 is legally permitted to operate.

§ 3A:51-1.2 Scope

(a) A resource family parent who is subject to the provisions of this chapter shall include any person with whom a child in the care, custody or guardianship of the Department is placed for resource family care, and any person with whom a child is placed by the Division for the purpose of adoption until said adoption is finalized.

(b) The resource family parent shall secure approval from the Department to provide one or more of the following services:

1. Regular foster care, in which care is provided for a child in need of temporary out-of-home placement for protective or other social services reasons;

2. Kinship care, in which the resource family parent is not a parent of the child in placement but is related to the child through blood, marriage, civil union, domestic partnership, or adoption or is connected to the child or the child's parent by an established positive psychological or emotional relationship; and

3. Adoptive care, in which care is provided for a child placed by the Division for the purpose of adoption by the resource family parent until said adoption is finalized.

(c) The provisions of this chapter shall not apply to a person who:

1. Operates a home that is licensed, approved, or regulated pursuant to State law exclusively by the State Department of Health, the State Department of Education, the State Department of Corrections, or any other New Jersey State agency;

2. Provides care exclusively for children under the auspices of the Division of Children's System of Care in the Department or the Division of Mental Health and Addiction Services of the Department of Human Services; or

3. Operates a children's group home, treatment home, teaching family home, alternative care home, supervised transitional living home, or shelter home that provides room, board, care, shelter, or treatment services for children on a 24-hour-a-day basis.

§ 3A:51-1.3 Definitions

(a) The definitions in N.J.A.C. 3A:14 are hereby incorporated into this chapter by reference.

(b) The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Case plan" means a written statement of the Division's intervention on behalf of a child, which includes identification of the problems which necessitate Division involvement with the family, the services or actions needed, who will accomplish or provide them, and the planned time frame for providing each service.

"Child in placement" means a child under the auspices of the Department who is placed in a resource family home because he or she cannot live with his or her own family due to neglect, abuse, or other circumstances, or who is placed for the purpose of adoption, and who is either under 18 years of age or who meets the criteria set forth in N.J.S.A. 9:17B-2(f).

"Civil union" means the legally recognized union of two eligible individuals of the same sex, established pursuant to P.L. 2006 c. 103, N.J.S.A. 37:1-28 et seq. Parties to a civil union shall receive the same benefits and protections and be subject to the same responsibilities as spouses in a marriage.

"Corporal punishment" means any type of physical punishment.

"Denial of a license" means the withholding by the Office of Licensing of an initial license for which the resource family parent applicant has applied.

"Department" means the New Jersey Department of Children and Families.

"Division" means the Division of Child Protection and Permanency, New Jersey Department of Children and Families, except for the Office of Licensing.

"Domestic partnership" means a partnership established pursuant to N.J.S.A. 26:8A-4b and 4.1.

"Household member" means a person residing in the resource family home other than a resource family parent, resource family parent applicant or child in placement. Household members shall also include boarders and frequent overnight guests 18 years of age or older in the resource family home.

"Kinship care" means care provided by a resource family parent or applicant who is:

1. Related to a child in placement through blood, marriage, civil union, domestic partnership, or adoption, and is not the child's parent; or

2. Connected to a child in placement or to the child's parent by an established positive psychological or emotional relationship.

"Level I requirement" means a licensing requirement, as set forth in this chapter, with which a resource family parent or resource family parent applicant must be in full compliance to receive or maintain a license. Level I requirements impact the safety, health and rights of children in placement.

"Level II requirement" means a licensing requirement, as set forth in this chapter, other than a level I requirement, with which a resource family parent or resource family parent applicant must be in

substantial compliance to receive or maintain a license. All requirements other than level I requirements are level II requirements.

"License" means a document issued by the Office of Licensing to a person at an approved location who complies with the applicable provisions of this chapter.

"Office of Licensing" or "Office" means the Office of Licensing in the New Jersey Department of Children and Families.

"Parent" means a birth parent, stepparent, adoptive parent, legal guardian, or any other person having legal custody of a child.

"Psychotropic medication" means those substances which exert a direct effect upon the central nervous system and which are utilized as a part of a treatment plan to influence and modify behavior in a positive manner.

"Reasonable and prudent parent standard" means as defined in 42 U.S.C. § 675(a)(10)(A).

"Refusal to renew a license" means a determination by the Office of Licensing not to issue a license to a resource family parent after his or her existing license has expired.

"Resource family" means all persons living with a resource family parent or applicant.

"Resource family home" or "home" means a private residence, located in New Jersey, other than a children's group home, treatment home, teaching family home, alternative care home or shelter home, in which board, lodging, care and temporary out-of-home placement services are provided by a resource family parent on a 24-hour basis to a child under the auspices of the Division, including a child placed by the Division for the purpose of adoption until the adoption is finalized.

"Resource family parent" means a person who is licensed by the Office of Licensing to provide resource family care, including a person who is licensed to have a child or children placed with him or her for the purpose of adoption.

"Resource family parent applicant" or "applicant" means a person who has applied for a resource family parent license.

"Restrictive behavior management" means the use of physical or mechanical restraint, or exclusion of a child from normal interactions with others, to control or modify the child's behavior. Restrictive behavior management shall not include briefly intervening without undue force in order to calm a child, or holding a child's hand to safely escort the child from one area to another, nor shall it include any situation where a physician has prescribed the use of protective medical equipment that confines the child's movement.

"Revocation of a license" means a permanent removal of a resource family parent's license to operate a resource family home.

"Substantial compliance" means compliance by a resource family parent or applicant who does not meet all applicable requirements of the law and of this chapter, when there is no serious or imminent hazard to the health, safety, well-being or rights of the children served, and the resource family parent or applicant is in full compliance with level I requirements.

"Suspension of a license" means a temporary removal of a resource family parent's license to operate a resource family home.

"Temporary caregiver" means a person who provides supervision to a child in placement on behalf of the resource family parent for more than three consecutive days.

“Worker” means a representative of the Division having supervision of a child in placement.

§ 3A:51-1.4 Compliance with level I and level II requirements

(a) In order to receive and maintain an initial or renewal license, the resource family parent or applicant shall be:

1. In full compliance with all applicable level I requirements; and

2. In full or substantial compliance with all applicable level II requirements.

(b) If the resource family parent or resource family parent applicant is found by the Office of Licensing to be in violation of one or more level I requirements, the resource family parent or applicant shall abate the violations within 30 days or sooner if specified in the violation notice.

(c) If the resource family parent is found by the Office of Licensing to be in violation of one or more level II requirements, the resource family parent shall abate the violations by the date specified in the violation notice. If the violations are not abated by the next annual or renewal inspection, the Office of Licensing may cite a level I violation for the noncompliance.

§ 3A:51-1.5 Nondiscrimination

The Department shall not discriminate with regard to the application or licensure of a resource family parent on the basis of race; color; ethnicity; national origin; age; disability; gender; religion; affectional or sexual orientation, as defined at N.J.S.A. 10:5-5hh; gender identity or expression, as defined at N.J.S.A. 10:5-5rr; parental status; birth status; or marital, civil union, or domestic partnership status.

§ 3A:51-2.1 Application for a license

(a) An applicant for an initial license shall submit a completed application to the Department.

(b) An applicant for an initial license shall be:

1. At least 18 years of age; and

2. A resident of the State of New Jersey.

(c) If there is more than one resource family parent applicant in the household, the applicants shall submit a single application for a single license.

1. Each applicant shall meet all requirements for licensure.

2. When a couple lives together, both partners shall be considered to be resource family parents who shall meet the requirements contained in this chapter.

3. The requirement in (c) 2 above for both applicants to meet the licensing requirements may be waived if a physician certifies that one of the applicants is incapable of being a caregiver due to a medical condition which does not place any child in placement at possible risk of harm.

(d) The applicant shall cooperate with the Department in the completion of all components of the application and home study process within the time limits established by the Department. The components of the application and home study process for an initial license shall include:

1. Inspection of the resource family home and surrounding area by the Office of Licensing or Division representative;

2. Interviews with each resource family parent, child and other household member;

3. Completion of a home study by the Division, as specified in N.J.A.C. 3A:51-5.3;

4. Completion of pre-service training, as specified in N.J.A.C. 3A:51-5.6; and

5. Completion and submission by the applicant of the following:

i. A Resource Family Parent Home Study/Licensing Application;

ii. Consent for release of information;

iii. Medical, personal, employment, school/day care, and child care references, as specified in N.J.A.C. 3A:51-5.2;

iv. Information necessary for a State and Federal Criminal History Record Information background check pursuant to N.J.S.A. 30:4C-26.8 for each applicant and household member 18 years of age or older, each new adult household member and each household member who reaches 18 years of age, as specified in N.J.A.C. 3A:51-5.4;

v. Information necessary for a Child Abuse Record Information background check for each applicant and household member 18 years of age or older, each new adult household member and each household member who reaches 18 years of age, as specified in N.J.A.C. 3A:51-5.5;

vi. Disclosure of any convictions for crimes or disorderly persons offenses for each applicant and each household member 14 years of age or older;

vii. A Resource Family Parent Agreement, which includes the applicant's agreement to attend to the child's health and dental care and to provide services as reflected in the Agreement and as appropriate to each child placed in the home;

viii. An agreement not to use unacceptable methods of discipline, including corporal punishment, hitting and shaking, abusive language, ridicule, humiliation, other forms of degradation, deprivation of meals or sleep, forcing a child to do strenuous physical work or exercise, denying the child communication or mail, removing or threatening to remove the child from the home, denying or threatening to deny family visits, or denying the child access to needed treatment services or medication; and

ix. An agreement not to use illegal substances; abuse alcohol, legal prescription or nonprescription drugs to excess or contrary to instructions; not to allow anyone to smoke in the presence of the child in placement; and to adhere to the reasonable and prudent parent standards; and

x. A statement of financial resources.

(e) An applicant seeking to provide kinship care, as specified in N.J.A.C. 3A:51-1.2(b)2, may be approved by the Division to care for a child prior to the issuance of a license, provided that all of the following conditions are met:

1. A life/safety inspection of the home by the Division reveals no health, safety, or fire hazards in the physical facility of the home and the premises where the home is located;

2. A check of the Division's records of child abuse and neglect reveals that no adult residing in the home has been responsible for an incident of sexual abuse of a child or an incident of child abuse or neglect that caused serious injury or harm to a child, or has caused death to a child through abuse or neglect, or has put a child at risk of serious injury or harm;

3. A check of court records reveals that no person residing in the home has been convicted of a crime specified in N.J.S.A. 30:4C-26.8; and

4. The applicant submits a Resource Family Parent Home Study/Licensing Application within five days following the placement of a child in the home. The Division shall begin the home study immediately after approving the application. If the application is denied, the Division shall identify an appropriate alternative placement for the child.

§ 3A:51-2.2 Issuance of a license

(a) The Office of Licensing shall issue a license to an applicant who has achieved full compliance with all applicable level I requirements and substantial or full compliance with all applicable level II requirements.

(b) The Office of Licensing may grant a waiver of a level II requirement for a resource family parent or applicant providing kinship care, as specified in N.J.A.C. 3A:51-1.2(b)2.

1. Requests for waivers shall be made to the Office of Licensing in writing by the Division representative, with supporting information justifying the request.

2. Waivers shall be considered on a case-by-case basis, only for non-safety standards for a specific child or children in placement. For the purpose of determining whether a waiver will be granted, level II requirements shall be considered non-safety standards.

3. A waiver may be granted at the discretion of the Office of Licensing upon consideration of the following criteria:

i. The type or degree of hardship that would result to the resource family parent or applicant if the waiver were not granted;

ii. The negative impact on a specific child or children in placement if the waiver were not granted; and

iii. Whether the waiver, if granted, would adversely affect the health, safety, well-being or rights of any child residing in the resource family home.

4. The Office of Licensing shall determine the terms and conditions for granting each specific waiver.

5. If a waiver is granted, the resource family parent or applicant shall comply with the terms and conditions of the waiver.

(c) The Office of Licensing shall notify the applicant and the appropriate Division office of the decision on licensure.

(d) The Office of Licensing shall notify the appropriate Division office of the decision on waivers, if applicable.

(e) If the Office of Licensing determines that the applicant is in full compliance with all applicable level I requirements and in substantial compliance with, but does not meet all applicable level II requirements, and there is no serious or imminent hazard to the rights, education, health, safety, well-being or treatment needs of a child who is or may be placed in the home, the Office shall issue a license to the applicant and indicate in writing the steps the applicant must take to correct the areas not in compliance.

(f) Upon receiving a license, each resource family parent shall sign an agreement concerning his or her role and responsibilities and containing assurances that each resource family parent will adhere to the corporal punishment, alcohol and drug use, smoking, and reasonable and prudent parent standards contained in N.J.A.C. 3A:51.

(g) If a license cannot be issued because there is a serious or imminent hazard to the rights, education, health, safety, well-being or treatment needs of a child who is or may be placed in the home, the Office of Licensing shall provide written notification to the applicant indicating the steps, if any, the applicant must take to secure a license.

(h) The license shall apply to the resource family parent at the home in which the resource family resides at the time of the application.

1. No more than one license shall be issued to a single residence.

2. The license shall be issued to one or more specific persons for a specific residence.

3. The license shall not be transferable, except as specified in (i) below.

(i) If the resource family changes residence, the Office of Licensing representative shall inspect the new residence to determine whether it is in compliance with the applicable provisions of this chapter, including the provisions of N.J.A.C. 3A:51-2.1(d) for cooperating with the Division in amending the home study. The resource family parent shall provide notice of a change of residence at least 30 days in advance of the move.

(j) Each licensing period shall be three years.

1. In determining the expiration date of the license, the Office of Licensing shall compute the three-year licensing period from the date of issuance of the first license.

2. In determining the expiration date of a renewed license, the Office of Licensing shall compute the three-year licensing period from the date on which the previous license expired. If, however, the home has ceased to operate for a period of one year or more following the expiration date of its previous license, the Office shall compute the date of the expiration from the date of issuance of a new license.

(k) The resource family parent shall maintain the license on file at the home.

(l) The resource family parent or applicant shall not make claims either in advertising or in any written or verbal announcement or presentation contrary to the licensing status of the resource family parent or applicant.

§ 3A:51-2.3 Annual inspection

(a) The resource family parent shall permit and ensure participation in:

1. An annual inspection of the resource family home by the Division or Office of Licensing representative to determine whether the resource family home complies with the applicable provisions of this chapter; and

2. An annual interview with each resource family parent, child in placement, and household member by the Division or Office of Licensing representative.

§ 3A:51-2.4 Renewal of a license

(a) A resource family parent seeking renewal of a license shall submit a completed Resource Family Parent Home Study/Licensing Application form to the Office of Licensing at least 60 calendar days prior to the expiration of the existing license.

(b) The Office of Licensing shall issue a renewal license to a resource family parent who has submitted a renewal application and participated in a renewal inspection of the resource family home.

(c) For license renewal, the resource family parent shall:

1. Permit and participate in an inspection by the Office of Licensing, as specified in N.J.A.C. 3A:51-2.3;

2. Ensure that he or she and each household member have obtained a physical examination within the last 12 months and submit each medical reference for each resource family parent and household member prior to license renewal;

3. Submit information necessary for a State Criminal History Record Information background check pursuant to N.J.S.A. 30:4C-26.8 for each resource family parent and household member 18 years of age or older, each new adult household member, and each household member who reaches 18 years of age, as specified in N.J.A.C. 3A:51-5.4(a)1 and 2;

4. Submit information necessary for a Child Abuse Record Information background check for each resource family parent and household member 18 years of age or older, each new adult household member and each household member who reaches 18 years of age, as specified in N.J.A.C. 3A:51-5.5; and

5. Submit an updated financial disclosure statement.

§ 3A:51-2.5 Denying, suspending, revoking, or refusing to renew a license

(a) The Office of Licensing shall deny an application or suspend, revoke or refuse to renew a license, as applicable, if the applicant, resource family parent or any household member at least 18 years of age has been convicted of a crime or offense specified in N.J.S.A. 30:4C-26.8.

(b) The Office of Licensing is authorized to deny an application or suspend, revoke or refuse to renew a license for good cause, including, but not limited to, the following:

1. Failure to comply with the provisions of this chapter;

2. Violation of the terms and conditions of a license;

3. Fraud or misrepresentation in obtaining a license;

4. Refusal to furnish the Department with files, reports or records as required by this chapter;

5. Refusal to permit an authorized representative of the Department to gain admission to the home or to conduct an inspection or investigation;

6. A conviction by the applicant, resource family parent or a household member at least 18 years of age for any crime or offense;

7. A determination by the Department that a report of child abuse or neglect by the applicant, resource family parent or a household member has been substantiated;

8. Any conduct, engaged in or permitted, which adversely affects or presents a serious hazard to the education, health, safety, general well-being or physical, emotional and social development of a child, or which otherwise fails to comply with the standards required for the provision of resource family care to a child and the maintenance of a resource family home;

9. Failure to be in full compliance with one or more level I requirements;

10. Failure to be in substantial compliance with one or more level II requirements;

11. Failure to abate outstanding violations of level II requirements by the next annual or renewal inspection, whichever comes first; or

12. Failure to comply with the terms and conditions of a waiver granted by the Office of Licensing.

(c) If a resource family parent or applicant fails to comply with the applicable provisions of this chapter, the Office of Licensing shall issue a directive ordering compliance.

(d) Before the decision to deny an application or suspend, revoke, or refuse to renew a license becomes effective, the resource family parent or applicant shall have the opportunity to request a hearing to contest the action, as specified in N.J.A.C. 3A:51-2.6(a).

(e) A previous denial of an application or suspension, revocation or refusal to renew a license shall not in itself result in an automatic disqualification of the resource family parent or applicant to secure a license, but shall constitute grounds for the Department to investigate the circumstances that led to the original negative action and to make a determination as to whether to reject or process the new application for a license.

(f) If the Office of Licensing denies an application, or revokes or refuses to renew a license, as specified in (a) and (b) above, the former resource family parent or applicant shall be prohibited from reapplying for a license for one year from the date of the denial, revocation, or refusal to renew the license. After the one-year period has elapsed, the former resource family parent or applicant may submit to the Department a new application for a license, if he or she believes that the condition that led the Office to deny the application or revoke or refuse to renew the license is no longer applicable.

(g) If a license is suspended, the Office of Licensing shall issue or reinstate the license once the resource family parent demonstrates that he or she has achieved compliance with the applicable provisions of this chapter. In such a case, the Office shall not require the resource family parent to submit a new application for a license unless reapplication is expressly made a condition of the issuance or reinstatement of the license.

(h) Each license issued by the Office of Licensing to a resource family parent remains the property of the State of New Jersey. If the Office of Licensing suspends or revokes a license, the resource family parent shall return the license to the Office of Licensing immediately.

§ 3A:51-2.6 Administrative hearings

(a) Before denying, suspending, revoking or refusing to renew a license, the Office of Licensing shall give written notice to the resource family parent or applicant personally, or by mail to the last known address of the resource family parent or applicant with return receipt requested. The notice shall:

1. State the reason for the action; and

2. Afford the resource family parent or applicant the opportunity to request a hearing to contest the action, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) As long as the Department determines that children are not at risk and that no imminent hazard exists, the Office of Licensing may permit a resource family parent whose license has been suspended, revoked, or refused for renewal, and who has requested a hearing, as specified in (a) above, to continue to operate the resource family home until a final decision is rendered as a result of the hearing.

§ 3A:51-2.7 Complaints

(a) Whenever the Office of Licensing receives a report questioning the licensing status or compliance of a resource family parent or applicant or alleging a violation of the requirements specified in this chapter, the Office of Licensing shall ensure that the allegation is promptly investigated to determine whether the complaint is confirmed.

(b) Upon completion of the complaint investigation, the Department shall notify the resource family parent or applicant and the Division office that has supervision of the resource family home in writing of the results of the investigation, with the exception of any information not permitted to be disclosed pursuant to N.J.S.A. 9:6-8.10a or any other State or Federal law.

(c) Whenever the Department conducts a complaint investigation, the resource family parent or applicant shall cooperate with all Department investigators.

(d) The Department, during the course of investigating a report of child abuse and neglect, may determine that immediate corrective action is necessary to protect a child whenever:

1. A resource family parent, applicant or household member has been found by the Department to have harmed or to pose a risk of harm to a child;

2. A resource family parent, applicant or household member has committed an act of child abuse or neglect, as substantiated by the Department; or

3. A resource family parent, applicant or household member has been convicted of such acts.

(e) When the Department makes a determination that immediate remedial action or long-term corrective action is necessary, the action may include temporary or permanent closure of the resource family home.

(f) Substantiation by the Department of a child abuse or neglect report shall not in itself automatically result in the denial, suspension, or revocation of or refusal to renew a license, but shall constitute grounds for such action at the discretion of the Office of Licensing after considering information provided by the Department. The Office of Licensing may issue or continue the license if the resource family parent's or applicant's continued service poses no continuing risk of harm to any child residing in the home and the issuance or continuation of the license is in the best interests of a specific child who is or will be placed in the home.

§ 3A:51-3.1 Rights of children in placement

(a) Level I children's rights requirements are as follows:

1. The resource family parent shall ensure that each child in placement is accorded the rights specified in the Child Placement Bill of Rights Act, as specified in N.J.S.A. 9:6B-1 et seq.

2. The resource family parent shall ensure the rights of each child in placement to:

i. Receive medical treatment as needed on a routine or emergency basis;

ii. Have access to an appropriate education;

iii. Live in a safe, clean and healthy home;

iv. Be free of physical and sexual harassment and abuse, corporal punishment, or threat thereof;

v. Be free of emotional maltreatment;

vi. Attend religious services chosen by the child's parent;

vii. Participate as a family member in the home;

viii. Have unimpeded communication with the Department office having supervision of the child, and with the child's law guardian or law guardian investigator; and

ix. Have a normal life pursuant to N.J.S.A. 30:4C-26c.

§ 3A:51-3.2 Records kept by a resource family parent

(a) The resource family parent shall maintain on file in the home the following information about each child in placement:

1. The child's full name, nicknames, if any, gender, date of birth, religion and race;

2. The name, address, and telephone number of the Division worker and supervisor;

3. The name, address, and telephone number of the worker or other person to be notified in an emergency involving a child in placement;

4. A Medicaid, health insurance or managed health care identification card, if applicable; and

5. A medication log if the child receives psychotropic medication, as specified in N.J.A.C. 3A:51-7.4(b).

(b) In addition to (a) above, the resource family parent, in conjunction with the worker, shall maintain on file in the home the following information about each child in placement when appropriate and applicable:

1. Schools attended and grade level; and

2. The child's medical history, including documentation of initial and annual physical examinations, chronic conditions, past serious illnesses, allergies, medications, immunizations, and special dietary needs.

(c) The resource family parent shall maintain on file the following records:

1. A copy of the resource family parent's vehicle insurance policy, if applicable;

2. A copy of the Manual of Requirements for Resource Family Parents, N.J.A.C. 3A:51; and

3. The telephone number for the Department's State Central Registry for reporting allegations of child abuse or neglect, currently 1-877-NJ-ABUSE (877-652-2873).

(d) The Department may, without prior notice, inspect and examine a resource family home and inspect all documents, records, files or other data required to be maintained by a resource family parent pursuant to the Resource Family Parent Licensing Act, N.J.S.A. 30:4C-27.3 et seq.

§ 3A:51-3.3 Confidentiality of records

(a) Each resource family parent file maintained by the Department of Children and Families shall be confidential to protect the safety and welfare of the children and resource family parents and shall not be part of the public record, in keeping with the Open Public Records Act, P.L. 2001, c. 404, and other applicable statutes and rules. The Department may issue statistical reports depicting resource family home licensing activity that are part of the public record, but such reports shall not contain any identifying information on any individual child or resource family home.

(b) The resource family parent shall be bound by the same standards of confidentiality regarding a child in placement, and the child's family, as the Department and its employees. These standards shall include, but are not limited to, the following:

1. The resource family parent shall not permit a child in placement to appear in any media publication or report without the express consent of the parent or Department representative.

2. The resource family parent or household member shall not discuss any confidential information about the child in placement with a friend, neighbor, non-household member or other individual who is not involved with the child's care, education or treatment.

§ 3A:51-3.4 Reporting requirements

(a) The resource family parent shall immediately verbally notify the State Central Registry whenever there is reasonable cause to believe that a child has been or is being abused or neglected, as required by N.J.S.A. 9:6-8.9, 8.10, 8.13 and 8.14. Copies of the law and information about it are available upon request from the Department's Office of Communications and Public Affairs, PO Box 729, Trenton, NJ 08625-0729.

(b) The resource family parent, or designee if the resource family parent is incapacitated, shall immediately verbally notify the Office of Licensing of the following changes or events after the resource family parent or designee learns of their occurrence, and shall immediately notify the State Central Registry if such changes or events occur after office hours:

1. Injury, accident, or illness that results in the admittance of a resource family parent or household member to a hospital;

2. The death of a resource family parent or household member;

3. Any current arrests, criminal convictions or guilty pleas of a resource family parent or household member;

4. Any household member added to the resource family; and

5. Any traumatic event that disrupts the stability of the home.

(c) The resource family parent shall immediately notify the Department office having supervision of the child, or the State Central Registry if after office hours, of the following:

1. Injury, accident or illness of a child in placement;

2. The death of a child in placement;

3. A child in placement who has run away or is missing from the home;

4. Temporary or permanent closing of a home; and

5. Any unusual incidents that occurred that might indicate possible abuse or neglect involving a child in placement. Such incidents include but are not limited to: acts of aggression, violent or destructive behavior, suicidal threats or behavior, homicidal threats, inappropriate sexual behavior, running away, withdrawal or passivity, drug or alcohol abuse, or significant changes in the child's behavior or habits.

(d) The resource family parent shall notify the Office of Licensing by telephone of the following changes or events by the next working day:

1. Significant damage to the premises of the home caused by fire, accident, or the weather; and

2. Proposed use of space, such as a bedroom, not previously approved by the Office of Licensing for a child in placement.

(e) The resource family parent shall notify the Office of Licensing at least 30 days in advance of relocation to a home not approved by the Office, as specified in N.J.A.C. 3A:51-2.2(i).

§ 3A:51-4.1 Physical facility and maintenance requirements

(a) Level I physical facility requirements are as follows:

1. In order to receive and maintain an initial or renewal license, the resource family home shall be in compliance with all applicable local and State laws, including the New Jersey Uniform Construction Code, as specified in N.J.A.C. 5:23, and the New Jersey Uniform Fire Code, as specified in N.J.A.C. 5:70, with respect to occupancy of a dwelling, health and fire safety provisions.

2. A telephone shall be in service in the home at all times when a child in placement is present.

3. Cameras, recording devices, or monitoring devices, including a home security system focusing on points of egress to the outside, may be installed.

4. Cameras, recording devices, and monitoring devices shall not be installed in or monitor bathrooms.

5. Cameras, recording devices, and monitoring devices shall not be used in a bedroom used by a child in placement who is over four years of age. The device shall not impose on the privacy of any child in placement.

6. The resource family parent shall reveal any use of monitoring or recording devices to each child in placement prior to their use.

(b) Level I maintenance requirements are as follows:

1. Major plumbing, drains, sewer lines and septic systems shall be operable and in good repair.

2. At least one toilet, one wash basin, and one bathtub or shower shall be provided in the home and shall be in good working order.

3. Each egress door shall be readily opened from the side from which egress is to be made without a key, special knowledge, or special effort.

4. Major appliances shall be plugged directly into electrical outlets. Small appliances may be operated by using an appropriately rated power strip. Extension cords shall not be used to connect appliances to electrical outlets.

5. Rodent or insect infestation shall be controlled if present.

6. All corrosive agents, insecticides, bleaches, polishes, products under pressure in an aerosol can and toxic substances shall be labeled and stored in an area inaccessible to children who are under 10 years of age or whose assessment indicates the need for such protection.

7. Alcoholic beverages shall be stored in an area inaccessible to children as necessary to ensure the safety of a specific child or children in placement.

8. If the home serves one or more infants or toddlers, the resource family parent or applicant shall ensure the installation of:

i. Safety latches on cabinets and closets containing hazardous or toxic substances;

ii. Safety gates on stairways and landings; and

iii. Protective safety covers on all electrical outlets accessible to children.

9. The resource family parent or applicant shall not use spray coatings containing asbestos on any interior or exterior surfaces of the home or on any equipment used therein, in accordance with rules of the State Department of Environmental Protection, as specified in N.J.A.C. 5:23-8. If the New Jersey Department of Health determines the presence of sprayed-on asbestos-containing materials and concludes that corrective action must be taken to minimize exposure potential, the resource family parent or applicant shall follow the recommendation of that Department for enclosure, removal, or other appropriate action to remove the threat or risk of asbestos contamination.

10. The resource family parent or applicant shall not use lead paint on and shall remove lead paint from any interior or exterior surfaces of the home, and from any furniture, toys, or other equipment used therein, in accordance with the provisions of N.J.S.A. 24:14A-1 et seq., and with the provisions of N.J.A.C. 8:51-7. If the Department determines that lead paint is hazardous to the health, safety, and well-being of a child in placement, the resource family parent or applicant shall ensure the removal of the lead paint hazard.

(c) The home, land and outdoor area shall be free from hazards to the health, safety, or welfare of children. Each requirement in this subsection is a level I requirement.

1. Light switches, electrical junction boxes, fuse boxes, electrical control panels and electrical sockets shall have protective plate covers.

2. During activities in the home, sufficient natural or artificial light shall be provided in all rooms used by a child in placement.

3. Heating and ventilation requirements are as follows:

i. A minimum temperature of 65 degrees Fahrenheit (18.5 degrees Celsius) shall be maintained in all rooms used by a child in placement.

ii. Working fireplaces and electric space heaters shall be protected by screens, guards, insulation, or any other non-combustible protective device.

iii. Steam and hot water pipers and radiators shall be protected by screens, guards, insulation, or any other suitable non-combustible protective device.

iv. Crawl spaces, attic spaces, and all doors and windows used for natural ventilation shall have insect screening.

4.When a wood burning stove is in use, the resource family parent shall ensure that either:

i. The stove is protected by screen or guard; or

ii. Age-appropriate supervision is provided at all times when children are present.

5. Kitchen and bathroom requirements are as follows:

i. Kitchen and cooking equipment shall be kept clean and sanitary.

ii. Toilets, wash basins, bathtubs, showers, kitchen sinks and other plumbing shall be maintained in good operating and sanitary condition.

iii. A sufficient supply of hot water that is maintained at a safe temperature in the professional judgment of the Office of Licensing staff and of cold running water shall be in the home.

6. Outdoor maintenance requirements are as follows:

i. All fencing shall be maintained in proper condition.
ii. The land, including the outdoor play area, if any, shall be free of standing water.

(d) Paint on the interior and exterior surfaces accessible to children shall be free of flaking, peeling and chipping. This is a level II requirement.

(e) The resource family parent or applicant shall ensure that all necessary steps are taken to correct any condition in the indoor or outdoor area that may endanger in any way the health, safety, and well-being of a child in placement.

(f) If the home has a swimming pool or natural bathing area, the resource family parent or applicant shall:

1. Maintain a ring buoy with a rope, extension pole or other device that can be used to rescue a swimmer in distress;

2. Meet all applicable local ordinances that apply to a swimming pool or natural bathing area; and

3. Enclose a swimming pool or natural bathing area with a barrier approved by the Office of Licensing and equip the barrier with a safety device; and

4. Have a working pump and filtering system for each pool, if that pool cannot be emptied after each use.

(g) The resource family parent shall ensure than an adult approved by the resource family parent or applicant supervises all children while they are in the pool, pool area, natural bathing area, hot tub, or spa.

(h) Each resource family parent shall use a safety cover that is locked when not in use, if the home has a hot tub or spa.

§ 3A:51-4.2 Bedroom requirements

(a) Level I bedroom requirements are as follows:

1. Each bedroom occupied by anyone in the resource family shall have two independent means of exit, at least one of which is an operable window or door suitable for emergency escape or rescue leading directly outside, or the current certificate of occupancy identifies the room as a bedroom, which means that adequate egress has been verified.

2. Each child in placement shall be provided with his or her own bed, bassinet, or crib, that is located in a bedroom and kept in a sanitary and safe condition. A child in placement shall not share a bed with either another child or an adult.

3. An unfinished attic or unfinished basement shall not be used for sleeping purposes by any child in the resource family.

4. Each bedroom occupied by a child in placement shall have natural light and ventilation provided by one or more windows opening directly to the exterior.

5. Each child in placement shall sleep in a bedroom that is sufficient in size to provide for the safety, privacy, and comfort of the child.

§ 3A:51-4.3 Sharing a bedroom

(a) A child in placement shall not share a bedroom with any child of the opposite sex unless consideration of the child in placement's age and sexual identity indicate that this is in the child's best interest.

§ 3A:51-4.4 Emergency evacuation, medical emergencies, and fire prevention

(a) Level I emergency evacuation, medical emergency, and fire safety requirements are as follows:

1. A battery-operated or hard wired smoke detector shall be:

i. Installed on each floor of the home;

ii. Installed adjacent to each sleeping area; and

iii. Operable at all times.

2. All combustible or flammable materials shall be kept at least three feet away from furnaces, boilers, heaters, fireplaces, wood-burning stoves, and hot water heaters.

3. Each child in placement shall receive age-appropriate instruction in how to evacuate the home safely in the event of fire or other emergency.

4. No portable liquid-fuel-burning heating appliance shall be used in the home.

5. The resource family parent shall maintain the following information near the telephone or other accessible area for use in the event of an emergency:

i. The name, address and telephone number of the physician(s) or hospital used by the child in placement;

ii. The 911 emergency services telephone number; and

iii. The poison control center telephone number.

6. The resource family parent shall maintain a basic first aid kit or first aid supplies in the home.

7. In order to receive an initial or renewal license, the resource family parent or applicant shall ensure that a carbon monoxide detector is in operation adjacent to each bedroom area, and on each floor of the home.

8. The resource family home shall contain at least one fully-charged fire extinguisher, that is rated 1A, 10BC, or ABC and is readily accessible.

§ 3A:51-4.5 Capacity

(a) Level I capacity requirements are as follows:

1. For children placed on or after February 6, 2006, the resource family parent shall comply with the following capacity limits on the number of children residing in the home:

    i. No more that four children in placement;
    ii. No more than six children in total, including children in placement and all other children residing in the home;
    iii. No more than four children in total below six years of age, including children in placement and all other children residing in the home;
    iv. No more than two children in total below two years of age, including children in placement and all other children residing in the home; and
    v. No more than two non-ambulatory children in total, including children in placement and all other children residing in the home.

2. The resource family parent shall comply with the capacity limits determined by the Department for the specific home.

(b) The Office of Licensing may license a resource family home for more than the capacity limits specified in (a)1 above if necessary to keep sibling groups intact or to serve the best interests of the children who are or may be placed in the home.

(c) The Office of Licensing may license a resource family home for less than the capacity limits specified in (a)1 above, may reduce a home's licensed capacity after the license has been issued, and may restrict a home to serve only a specific child or children, if necessary, to serve the best interests of the children who are or may be placed in the home.

§ 3A:51-5.1 General personal requirements

(a) Level I general personal requirements are as follows:

1. The resource family parent or resource family applicant shall be of good character, as evidenced by the application and home study process as specified in N.J.A.C. 3A:51-2.1, and shall possess skills, attributes and characteristics conducive to and suitable for being a resource family parent and caring effectively for a child in placement.

2. The resource family parent or resource family parent applicant shall be in sufficient physical, mental, and emotional health to perform his or her duties satisfactorily.

i. The resource family parent or resource family parent applicant shall be free of serious contagious diseases that may put a child in placement at risk.
ii. The resource family parent or resource family parent applicant shall refrain from abuse of drugs or alcohol.
iii. Each resource family parent or resource family parent applicant shall disclose his or her current mental health and substance use issues and shall participate in recommended psychological evaluations and drug screenings when determined to be necessary by the Department.
iv. Each resource family parent or resource family parent applicant shall disclose his or her physical health, mental health, and substance use history.

3. The resource family parent or resource family parent applicant shall demonstrate reasonable and mature attitudes towards professional figures and institutions, as determined by a review of references and an assessment of the resource family parent's interactions during training and home visits by the Department representative.

i. The resource family parent shall cooperate with all activities in the case plan for the child in placement, such as counseling, therapy, court sessions, visits with the child's family or life skills programs to develop the basic skills needed to succeed in daily living, career planning, housing and money management, when appropriate.
ii. The resource family parent or resource family parent applicant and each household member shall cooperate in all licensing activities as requested by the Department.

4. At least one resource family parent shall be able to communicate with each child in placement in a language that the child understands.

5. At least one resource family parent or applicant shall be able to communicate in English.

6. At least one resource family parent or applicant shall be functionally literate.

7. The resource family parent shall have sufficient income or other means of financial support prior to the placement of a child, so that the resource family parent is economically independent of board subsidy payments from the Department.

i. The resource family parent shall provide the necessities of life for his or her family.

ii. The resource family parent shall use all money received in the name of a child in placement for that child's care.

8. The resource family parent shall be able to provide daily care and supervision for each child in placement, as appropriate to the child's age and needs.

9. The resource family parent shall be able to provide sufficient time and attention to each child in placement without causing other family members' needs to go unmet or overburdening the resource family parent.

§ 3A:51-5.2 References

(a) The resource family parent applicant shall submit contact information for the applicable references specified below in order to receive an initial license:

1. A medical reference, which includes a recommendation from a physician, for each applicant and household member;

2. Three personal references for the applicant(s);

3. An employment reference for each employed applicant;

4. A school or day care reference for each child in the resource family who attends school or day care; and

5. A child care reference for each applicant who has served as a child care provider or as a caregiver for a child placed by another agency.

(b) The medical reference shall meet the following requirements:

1. For each applicant and household member, the applicant shall submit a medical reference from a physician based on the physician's examination of the individual within 12 months prior to the date of completion of the medical reference for initial licensure or within 12 months of the date of completion of the medical reference for renewal licensure.

2. The medical reference source shall provide information needed to assist the Department in evaluating the physical and emotional health of the individual. Information in the medical reference shall include, but is not limited to:

i. Whether the individual is free from serious contagious disease;

ii. Whether the individual has any conditions or residual effects resulting from a particular disease;

iii. Whether the individual is in good physical health;

iv. An immunization history if the individual is below 18 years of age;

v. Whether, to the physician's knowledge, the individual is in good emotional health;

vi. Whether, to the physician's knowledge, the individual uses any substance, such as tobacco, alcohol or drugs, in a way that affects his or her ability to function;

vii. Whether the individual should not care for or associate with a child in placement;

viii. How long the individual has been a patient of the physician; and

ix. The date of the last physical examination of the individual.

(c) Each personal reference shall meet the following requirements:

1. All personal reference sources shall be unrelated to the individual who is the subject of the reference and shall possess knowledge that would allow them to attest to the individual's suitability to care for children.

2. At least one personal reference source shall have known the individual for five years or more.

3. At least one personal reference source shall have been, within the last six months, a neighbor of the individual, or a member of the community in which the individual has lived.

4. Applicants from the same household may obtain the same personal reference from outside the household, provided that the source has knowledge of each applicant.

5. The personal references shall provide information needed to assist the Department in evaluating:

i. The personal characteristics of each applicant;

ii. The applicant's experience with children and ability to provide love and security to a child;

iii. That the applicant does not engage in activities that may be incompatible with responsible parenting;

iv. The applicant's problem behaviors, such as excessive use of alcohol, poor work history, child abuse, drug abuse, violent behavior, poor money management, compulsive gambling, deviant sexual behavior, mental illness, and criminal activities, if any;

v. The extent to which applicants in a marriage, civil union, or domestic partnership are a compatible couple with a strong, loving, and stable relationship;

vi. The extent to which the personal reference source would feel comfortable allowing the applicant to care for the source's child permanently; and

vii. The reliability of observations of the home made by the Department representative and reports given by the resource family.

(d) The employment reference shall meet the following requirements:

1. The employment reference source shall be the applicant's employer. If the applicant states that a current job reference will jeopardize the applicant's employment status, the applicant shall provide a reference from a previous employer.

2. If a current or previous employer is not available, the applicant shall provide a reference from an appropriate alternative such as a recent former teacher or the applicant's supervisor in a volunteer activity.

3. The employment reference source shall provide information needed to assist the Department in evaluating the stability and reliability of the applicant.

(e) The school or day care reference source shall provide information needed to assist the Department in evaluating the adjustment of the applicant’schild in school or day care and the role taken by the applicant in the child's education or care.

(f) The child care reference shall provide information needed to assist the Department in evaluating the quality of care given by the applicant as a child care provider or as a caregiver for a child placed in the home by another agency.

(g) For each new household member, the resource family parent or applicant shall submit the applicable references as specified in (a) through (f) above.

§ 3A:51-5.3 Home study

(a) The applicant shall permit and participate in a home study by the Department. The completed home study shall include:

1. Identifying information on each applicant and household member, including:

i. Current address and all previous addresses within the past five years, if applicable;

ii. A visa or United States Citizenship and Immigration Service documentation as evidence of legal residency, if the resource family parent or applicant is not a citizen of the United States;

iii. A description of each room and indoor area in the home and the area outside the home;

iv. Information about all persons residing in the home; and

v. A statement of income and financial resources.

§ 3A:51-5.4 Criminal History Record Information background checks

(a) Level I Criminal History Record Information requirements are as follows:

1. As a condition of securing a license, the resource family parent or applicant shall ensure that a State and Federal Criminal History Record Information (CHRI) background check, in keeping with the New Jersey Adoption and Safe Families Act, P.L. 1999, c. 53, N.J.S.A. 30:4C-26.8, and current within one year, is completed for each resource family parent or applicant and each household member at least 18 years of age.

2. Each new household member at least 18 years of age, and each household member who reaches 18 years of age shall complete a State and Federal CHRI background check.

3. Each resource family parent or adult household member who is not registered in the flagged State criminal history record information background check pursuant to N.J.S.A. 30:4C-27.8b shall complete a State CHRI background check prior to license renewal.

4. A criminal history record name-based check can replace the CHRI background check in individual cases where fingerprints cannot be taken because of a physical disability which prevents fingerprinting or because the person has either no fingerprints or no fingers.

5. If the resource family parent or applicant or any person specified in (a)1 above refuses to consent to a CHRI fingerprint background check, the Office of Licensing shall deny the application or suspend, revoke or refuse to renew the license, as applicable.

6. If any person specified in (a)1 above has a record of criminal conviction, the Department shall review the record with respect to the type and date of the criminal offense and make a determination as to the suitability of the resource family parent or applicant to receive or maintain a license.

7. A person shall be disqualified from receiving or maintaining an initial or renewal license as a resource family parent if that person or any person specified in (a)1 above ever committed a crime which resulted in a conviction for:

i. A crime against a child, including endangering the welfare of a child and child pornography pursuant to N.J.S.A. 2C:24-4; or child abuse, neglect, or abandonment pursuant to N.J.S.A. 9:6-3;

ii. Murder pursuant to N.J.S.A. 2C:11-3 or manslaughter pursuant to N.J.S.A. 2C:11-4;

iii. Aggravated assault which would constitute a crime of the second or third degree pursuant to subsection b. of N.J.S.A. 2C:12-1;

iv. Stalking pursuant to P.L. 1992, c. 209 (N.J.S.A. 2C:12-10);

v. Kidnapping and related offenses including criminal restraint; false imprisonment; interference with custody; criminal coercion; or enticing a child into a motor vehicle, structure, or isolated area pursuant to N.J.S.A. 2C:13-1 through 6;

vi. Sexual assault, criminal sexual contact or lewdness pursuant to N.J.S.A. 2C:14-2 through 4;

vii. Robbery which would constitute a crime of the first degree pursuant to N.J.S.A. 2C:15-1;

viii. Burglary which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:18-2;

ix. Domestic violence pursuant to P.L. 1991, c. 261 (N.J.S.A. 2C:25-17 et seq.);

x. Endangering the welfare of an incompetent person pursuant to N.J.S.A. 2C:24-7 or endangering the welfare of an elderly or disabled person pursuant to N.J.S.A. 2C:24-8;

xi. Terrorist threats pursuant to N.J.S.A. 2C:12-3;

xii. Arson, pursuant to N.J.S.A. 2C:17-1, or causing or risking widespread injury or damage that would constitute a crime of the second degree pursuant to N.J.S.A. 2C:17-2; or

xiii. An attempt or conspiracy to commit an offense listed in (a)7i through xii above.

8. A person shall be disqualified from receiving or maintaining an initial or renewal license as a resource family parent if that person or any person specified in (a)1 above was convicted of one of the following crimes and the date of release from confinement occurred during the preceding five years:

i. Simple assault pursuant to subsection a. of N.J.S.A. 2C:12-1;

ii. Aggravated assault which would constitute a crime of the fourth degree pursuant to subsection b. of N.J.S.A. 2C:12-1;

iii. A drug-related crime pursuant to P.L. 1987, c. 106 (N.J.S.A. 2C:35-1 et seq.);

iv. Robbery which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:15-1;

v. Burglary which would constitute a crime of the third degree pursuant to N.J.S.A. 2C:18-2; or

vi. An attempt or conspiracy to commit an offense listed in (a)8i through v above.

9. The term "date of release from confinement" in (a)8 above means the date of termination of court-ordered supervision through probation, parole, or residence in a correctional facility, whichever date occurs last.

10. A conviction for one of the offenses enumerated in (a)7 or 8 above shall be determined to have occurred if the person has been convicted under the laws of this State or any other state or jurisdiction for an offense that is substantially equivalent to the offenses enumerated in this subsection.

11. If the Department is notified that any person specified in (a)1 above is convicted of a crime or offense after the CHRI has been completed, the Department shall make a determination whether to deny, suspend, revoke, or refuse to renew the resource family parent's license.

(b) The Department may obtain a criminal history check from the local police department for any resource family parent, applicant, temporary caregiver, or household member at least 18 years of age. The

applicant or resource family parent shall submit Department-specified release of information forms for a local criminal history check for such an individual when requested by the Department.

§ 3A:51-5.5 Child Abuse Record Information background checks

(a) Level I Child Abuse Record Information requirements are as follows:

1. As a condition of securing and maintaining a license, the resource family parent or applicant shall provide written consent to the Division for a Child Abuse Record Information (CARI) background check from each resource family parent or applicant, each household member at least 18 years of age, each new household member at least 18 years of age, and each household member who reaches 18 years of age.

2. If any person specified in (a)1 above refuses to consent to a CARI background check, the Office of Licensing shall deny the application or suspend, revoke, or refuse to renew the license, as applicable. The resource family parent or applicant may appeal the denial, suspension, revocation or refusal to renew, as specified in N.J.A.C. 3A:51-2.6.

3. Upon receipt of written consent from a person specified in (a)1 above, the Division shall conduct a search of its records to determine if an incident of child abuse or neglect has been substantiated, pursuant to section 4 of P.L. 1971, c. 437 (N.J.S.A. 9:6-8.11), against the person. The Department shall consider incidents of child abuse or neglect that were substantiated on or after June 29, 1995, to ensure that the perpetrator has had an opportunity to appeal a substantiated finding. The Department may consider substantiated incidents prior to that date if the Department, in its judgment, determines that the perpetrator poses a risk of harm to a child in a resource family home. In cases involving incidents substantiated prior to June 29, 1995, the Department shall offer the perpetrator an opportunity for a hearing to contest the substantiation, in accordance with N.J.A.C. 3A:5.

4. The Division shall request information from another state's child abuse and neglect registry when any resource family parent or applicant or household member is at least 18 years of age and has resided in any state other than New Jersey during the past five years.

(b) If the Department determines that an incident of child abuse or neglect by any person specified in (a)1 above has been substantiated, the Office of Licensing shall deny the application or suspend, revoke, or refuse to renew the license, as applicable; except that the Office may issue a license if all of the following conditions have been met:

1. No person specified in (a) above has been substantiated for an incident of sexual abuse of a child or an incident of child abuse or neglect that caused serious injury or harm to a child, or has caused death to a child through abuse or neglect, or has put a child at risk of serious injury or harm;

2. A child in placement is already living in the home, or a child is recommended for placement in the home;

3. The Division has determined that there is no danger to the child if he or she remains or is placed in the home;

4. The Division has determined that it is in the child's best interest to remain or to be placed in the home; and

5. The Office of Licensing has given approval for the resource family home to be open for all children already in placement or recommended for placement in the home.

§ 3A:51-5.6 Training

(a) A level I training requirement is as follows:

1. Prior to the issuance of a license, each applicant shall complete pre-service training, provided or approved by the Department, which will adequately prepare the applicant with the appropriate knowledge and skills to provide for the needs of the children who are or may be placed in the home, including those related to the reasonable and prudent parent standard.

2. The pre-service training shall include, but is not limited to:

i. Legal rights, roles, responsibilities, and expectations of resource family parents;
ii. The structure, purpose, policies, and services of the Department;
iii. The laws and rules governing the Department;
iv. The impact of childhood trauma;
v. Managing child behaviors;
vi. Training in first aid and cardiopulmonary resuscitation for the ages of children in placement; and
vii. The importance of maintaining the parent-child connections and visitation.

(b) Each resource family parent shall complete annual in-service training, provided or approved by the Department, which will provide the resource family parent with the appropriate knowledge and skills to continue to provide for the needs of the children placed in the home, including those related to the reasonable and prudent parent standard.

§ 3A:51-5.7 (Reserved)

§ 3A:51-6.1 Supervision of children in placement

(a) Level I supervision requirements are as follows:

1. The resource family parent shall ensure the supervision of each child in placement, as appropriate to the child's age and particular needs, pursuant to the reasonable and prudent parent standard.

2. The resource family parent shall be reachable by telephone in the event of an emergency or illness when the child in placement or resource family parent is not in the home.

3. When temporary care is provided for a child in placement on behalf of the resource family parent for more than three consecutive days, either in the resource family home or in the temporary caregiver's home:

i. The resource family parent shall inform the Department office of the temporary care arrangements;

ii. The temporary caregiver shall complete a Child Abuse Record Information background check, as specified in N.J.A.C. 3A:51-5.5, and a check of court records;

iii. The temporary care arrangements shall be approved by the Department office having supervision of the child; and

iv. The temporary caregiver shall be trustworthy and well known to the resource family parent.

4. When a child in placement attends a child care center or family child care home, the program shall be either licensed, as specified in N.J.A.C. 3A:52, or registered, as specified in N.J.A.C. 3A:16 and 3A:54, as applicable.

5. The resource family parent shall not use cameras installed in the home as a means of supervision unless determined by the treating physician to be medically necessary.

§ 3A:51-6.2 Visitation and communication

(a) The Department office having supervision of the child in placement, in consultation with the resource family parent, shall determine the family members and friends with whom the child may communicate and visit.

(b) Level I visitation and communication requirements are as follows:

1. The resource family parent shall comply with the visitation restrictions specified by the Department for each child in placement.

2. The resource family parent shall provide each child in placement with access to a telephone for telephone conversations with the child's worker and law guardian or law guardian investigator, as applicable.

i. The resource family parent shall not obligate the child in placement to pay for the cost of telephone calls to and from the worker or law guardian.
ii. The resource family parent shall provide each child in placement with adequate privacy for telephone calls to and from the worker and law guardian, but the resource family parent may locate the telephone in an area where the resource family parent can observe the child's reactions.

3. The resource family parent shall provide each child in placement with reasonable access to the telephone and other means of communication for communication with the child's parents.

i. The resource family parent may impose restrictions on these conversations and communications if necessary to comply with a court order or child's case plan that limits the child's contact with his or her parents.
ii. When the resource family parent imposes restrictions on a child's access to telephone conversations or other means of communication, as specified in (b)3i above, the resource family parent shall explain the nature of the restrictions to the child.

4. The resource family parent shall prohibit the use of tapes or any other mechanical or electronic listening devices to monitor the telephone calls of a child in placement.

5. The resource family parent shall provide each child in placement with adequate amounts of stamps and writing materials for corresponding with family, friends and other persons who have a positive relationship with the child.

6. If a visitor appears to be under the influence of drugs or alcohol, the resource family parent shall prohibit the individual from transporting the child in placement.

(c) The resource family parent shall provide each child in placement with reasonable access to the telephone or other means of communication to communicate with friends. The resource family parent may impose one or more of the following conditions:

1. Restricting the time and duration of telephone calls or other communications;

2. Denying the child in placement the use of the telephone or other means of communications for discipline reasons; and

3. Requesting the child in placement to identify telephone callers and those individuals with whom the child in placement communicates.

(d) If a visitor appears to be under the influence of drugs or alcohol, the resource family parent:

1. May restrict the individual from visiting; and

2. Shall immediately contact the Division or the State Central Registry when the Division's local office is closed.

(e) The resource family parent shall request that the child in placement open parcels or letters in the presence of the resource family parent upon suspicion that the contents contain contraband. If the child refuses to comply with this request, the resource family parent shall inform the child's worker.

(f) The resource family parent shall permit a child in placement to visit his or her Division worker and law guardian or law guardian investigator, as applicable, upon request.

(a) The resource family parent shall cooperate with the Department to ensure that each school-age child in placement receives an educational program pursuant to N.J.S.A. 30:4C-26(c) and N.J.S.A. 18A:7B-12(a).

1. The resource family parent shall register each school-age child in placement in school.

2. The resource family parent shall ensure that each school-age child in placement attends school regularly according to applicable State and local school attendance requirements.

3. Home schooling in lieu of school attendance for a child in placement shall be prohibited.

(b) The resource family parent shall encourage good study habits, be involved with the academic progress of each child in placement, attend school conferences, and meet with school personnel when there are problems or periodic reviews.

1. The resource family parent shall review and sign report cards and other reports that pertain to the child's education.

2. The resource family parent shall inform the Division worker about the academic progress of each child in placement.

(c) The resource family parent shall ensure that each preschool-age child in placement is provided age-appropriate activities and an environment suitable to stimulate the child's proper development.

(d) The resource family parent shall ensure that each child in placement who is three or four years old, or five years old and not enrolled in kindergarten, attends an early childhood education program. The early childhood education program shall be:

1. Provided by a licensed child care center, a registered family child care provider in accordance with N.J.A.C. 3A:16 and 3A:54, or a public or private school, or provided or approved by the Department of Children and Families, the Department of Education, or the Department of Health; and

2. Approved by the worker as meeting the child's educational needs.

(e) The resource family parent shall ensure the opportunity for the continuity of the cultural and ethnic growth and education of each child placed in the home.

§ 3A:51-6.4 Recreation

The resource family parent shall determine the recreational activities the child may engage in, based on the reasonable and prudent parent standard.

§ 3A:51-6.5 Religion

(a) The resource family parent shall ensure that the child in placement is afforded the opportunity to attend religious activities and services in the community in accordance with the faith of the child's parent.

(b) The resource family parent shall provide or arrange transportation if the child in placement wishes to attend religious activities or services.

(c) The resource family parent shall not coerce or require a child in placement to participate in religious activities, nor punish a child in placement who chooses not to participate in religious activities.

(d) The resource family parent's religious practices shall not interfere with a child in placement receiving medical care.

(e) The resource family parent may include the child in placement in the resource family parent's religious activities or services if the child expresses such interest and the child's parent consents.

§ 3A:51-6.6 Food and nutrition

(a) Level I food and nutrition requirements are as follows:

1. The resource family parent shall ensure that each child in placement is provided with at least three nutritious meals daily.

2. The resource family parent shall make daily snacks available if the child in placement desires them, unless there is a medical reason not to provide them.

3. The resource family parent shall select, store, prepare, and serve food in a sanitary and palatable manner.

4. The resource family parent shall not force-feed or otherwise coerce the child in placement to eat, except by order of a physician.

5. The resource family parent shall provide meals as prescribed by a physician for each child in placement who requires a specialized diet.

6. The resource family parent shall ensure that the daily diet for each child in placement includes a balance of foods from all essential food groups.

7. The resource family parent shall ensure that each meal contains a sufficient amount of food for each child in placement.

8. The resource family parent shall make available, as necessary, an alternate choice of food for each child in placement on a special diet or who, because of religious beliefs, cannot eat certain foods.

9. If the child in placement is an infant, the resource family parent shall consult with the infant's health care provider and follow recommendations in regard to the feeding schedule, special formula, nutritional needs, and introduction of new foods.

§ 3A:51-6.7 Pets

(a) The resource family parent shall ensure that pets kept in the home pose no danger to the health, safety, or well-being of a child in placement.

(b) The resource family parent shall ensure that all pets kept in the home are:

1. Domesticated and non-aggressive;

2. Vaccinated, if applicable, as prescribed by law or as recommended by a licensed veterinarian. The record of the vaccinations shall be maintained in the home, along with the name and address of the licensed veterinarian providing care for the pet;

3. If sick, removed from the areas occupied by the child in placement, until the pet has been examined by a licensed veterinarian who verifies that the pet does not present a risk to the child; and

4. Effectively controlled by leash, command, or cage.

(c) The resource family parent shall ensure that animal waste is disposed of in a sanitary manner.

(d) If the child in placement is a pregnant adolescent, the resource family parent shall prohibit the child from cleaning a cat's litter box.

§ 3A:51-6.8 Discipline and control

(a) Level I discipline and control requirements are as follows:

1. The resource family parent shall not assign the responsibility for the discipline and control of a child in placement to another child, or to an adult who is not a resource family parent, unless the adult is providing temporary care on behalf of the resource family parent, as specified in N.J.A.C. 3A:51-6.1.

2. The resource family parent shall not threaten discipline or administer discipline to a child in placement for the misbehavior of another child.

3. The resource family parent shall not use the following types of punishment on a child in placement:

i. Any type of physical hitting, shaking or the use of corporal punishment;

ii. Forced physical exercise or forcing the child to take an uncomfortable position;

iii. Subjection to verbal abuse, ridicule, humiliation, or other forms of degradation;

iv. Deprivation of meals, sleep, clothing, or communication;

v. Mechanical or chemical restraint;

vi. Assignment of overly strenuous work;

vii. Exclusion from medical treatment, education, or clinical treatment;

viii. Locking the child out of the home;

ix. Locking the child in a room or area of the home;

x. Withholding or threatening to withhold visits with the child's birth family; or

xi. Removing or threatening to remove the child from the home.

4. The resource family parent shall not use restrictive behavior management practices to control or modify the behavior of a child in placement.

5. The resource family parent shall use acceptable methods of discipline and control for the child in placement, such as:

i. Brief time-out;

ii. Withholding of privileges, such as television, play time, or other activity;

iii. Early bedtimes;

iv. Writing a story or an essay;

v. Having the child do extra chores that are appropriate to the child's age and ability; or

vi. Discussing the child's behavior with the child in a supportive manner.

§ 3A:51-6.9 Firearms and weapons

(a) Level I firearms and weapons requirements are as follows:

1. All firearms shall be secured in a locked steel gun vault approved by the Office of Licensing.

2. All ammunition shall be secured in a locked area separate from the firearm storage vault.

3. The resource family parent shall not maintain chemical weapons such as mace or pepper spray in the home unless these items are stored in a place inaccessible to children.

§ 3A:51-6.10 Clothing

(a) Level I clothing requirements are as follows:

1. The resource family parent shall ensure that each child in placement has adequate, clean clothing and a permanent place to store it, in accordance with the reasonable and prudent parent standard.

2. The resource family parent shall not require a child in placement to wear any article of clothing that identifies the child as a member of an organization unless the child chooses to wear such clothing.

§ 3A:51-7.1 Health care and medical treatment

(a) Level I health care and medical treatment requirements for children are as follows:

1. The resource family parent, in cooperation with the Division worker, shall ensure that the medical, dental, mental/behavioral health, and other health care needs of each child in placement who is under 18 or when the case plan states that the resource family parent is responsible are adequately and promptly met, including arranging for emergency, routine, and follow-up medical, dental, mental/behavioral health, and other health care.

2. The resource family parent shall ensure that each child living in the home, including children in placement under age 18 or when the case plan states that the resource family parent is responsible and all other children in the resource family, receives all age-appropriate immunizations as recommended by the child's physician, unless a physician or advanced practice nurse documents that immunization would be detrimental to the child’s health.

3. A child residing in the home who is not in placement shall be exempted from immunization, if:

i. The parent objects thereto in a written statement submitted to the Department, signed by the parent, explaining how the immunization conflicts with the child's exercise of bona fide religious tenets or practices; or

ii. Immunization is contrary to the child’s health as documented by a physician or advanced practice nurse.

(b) The resource family parent shall maintain documentation of all medical, dental and other health care examinations and treatment for each child in placement who is under age 18 or when the case plan states that the resource family parent is responsible. The resource family parent shall contact the worker to obtain this information if he or she does not have documentation of a child's examinations and treatment.

(c) The resource family parent shall ensure that all medical, dental, psychological and psychiatric treatment or medication administered to a child in placement who is under 18 is explained to the child in an age-appropriate manner.

§ 3A:51-7.2 General health practices

(a) Level I general health practices requirements are as follows:

1. If a serious accident or illness occurs to a child in placement, the resource family parent shall take necessary emergency action and immediately notify the Department office having supervision of the child, or the State Central Registry, if after business hours.

2. If a child in placement, resource family parent, or household member has a serious communicable disease, the resource family parent shall:

i. Seek appropriate medical attention from a physician for the individual and determine the possible risks to others in the home;

ii. Isolate the individual posing a risk to others; and

iii. Contact the Division worker or the State Central Registry, if after office hours, who shall determine whether the New Jersey State Department of Health, the local health department, or other appropriate public health authority needs to be contacted.

3. The resource family parent shall maintain a smoke-free environment in all indoor areas of the home, in all vehicles used to transport a child in placement, and in the presence of each child in placement.

i. The resource family parent shall prohibit smoking and the use of smokeless tobacco by children in placement.
ii. The resource family parent shall comply with the provisions of N.J.S.A. 2A:170-51.4 prohibiting any person from directly or indirectly selling, giving or furnishing to a minor under 19 years of age any cigarettes made of tobacco, any matter or substance that can be smoked, any cigarette paper or tobacco in any form, including smokeless tobacco.
iii. The resource family parent may permit smoking outdoors when no child in placement is present.

§ 3A:51-7.3 Prescription and non-prescription medication

(a) Level I prescription and non-prescription medication requirements are as follows:

1. The resource family parent shall administer prescription medication to a child in placement under age 18 or when the case plan states that the resource family parent is responsible only when a physician, clinical nurse specialist, nurse practitioner or dentist authorizes the medication.

2. The resource family parent shall administer non-prescription over-the-counter medication only in accordance with the recommended dosage for the age or weight of the child in placement, as indicated on the label or as directed by the child's physician, clinical nurse specialist, nurse practitioner or dentist.

3. The resource family parent shall ensure that all prescription and non-prescription medications are kept in an area inaccessible to children.

4. The resource family parent shall allow each child in placement 18 years and older to maintain and administer his or her own medication:

i. Unless it is prohibited by the prescribing physician or the case plan; and

ii. If the medication is securely stored.

(b) For each child in placement under age 18, the resource family parent shall safely dispose of all expired medications and prescriptions and all medications and prescriptions that are no longer used.

§ 3A:51-7.4 Psychotropic medication

(a) Level I psychotropic medication requirements are as follows:

1. Before any psychotropic medication is administered to a child in placement under age 18 or when the case plan states that the resource family parent is responsible, the resource family parent, in conjunction with the Division worker, shall ensure that the child's initial assessment to determine the need for and the possible risks or side effects of psychotropic medication is completed by a board-certified or board-eligible physician in one of the following areas of expertise: psychiatry, neurodevelopmental pediatrics, or pediatric neurology.

i. The resource family parent, in conjunction with the Division worker, may utilize the services of the physicians identified in (a)1 above, a pediatric or family physician, or an advanced practice nurse certified in pediatric or family medicine or psychiatric/mental health, to complete an initial assessment, being conducted solely for the purpose of assessing Attention Deficit Hyperactivity Disorder and to determine the need for and the possible risks or side effects of the psychotropic medication.

2. The resource family parent shall be knowledgeable about the indications for the use of psychotropic medication, the therapeutic benefits and the side effects of such medication.

3. The resource family parent shall not administer psychotropic medication as a punishment or for the convenience of the resource family parent.

4. The resource family parent shall ensure that psychotropic medication is stored in an area inaccessible to children.

5. The resource family parent shall ensure that each child in placement who is under 18 or whose case plan states that the resource family parent shall maintain this responsibility and who is prescribed psychotropic medication is monitored in the following manner:

i. The resource family parent shall immediately report any observed side effects, which are identified in the assessment specified in (a)1 and (a)1i above, to the Division worker and the prescriber.

ii. The resource family parent, in conjunction with the Division worker, shall ensure that ongoing assessments, psychotropic medication monitoring, and resultant prescriptions for a child in placement who is under age 18 only be conducted by a board-certified or board-eligible physician in one of the following areas of expertise: psychiatry, neurodevelopmental pediatrics, or pediatric neurology, or by an advanced practice nurse certified in psychiatric/mental health.

iii. The resource family parent, in conjunction with the Division worker, may utilize the services of the physicians or advanced practice nurses certified in psychiatric/mental health identified in (a)5ii above, or he or she may utilize the services of a pediatric or family physician, or an advanced practice nurse certified in pediatric or family medicine to complete the ongoing assessments, medication monitoring, and prescriptions, where ongoing assessments, medication monitoring, and prescriptions are solely for the treatment of Attention Deficit Hyperactivity Disorder.

iv. The resource family parent, in conjunction with the Division worker, shall ensure that the prescriber reviews the child's status, behavior, well-being, progress, side effects,

and reason for continuing the medication every 30 days or as the prescriber deems necessary.

v. The resource family parent, in conjunction with the Division worker, shall ensure that a pediatric or family physician or advanced practice nurse certified in pediatric or family medicine or psychiatric/mental health treating a child in placement who is under age 18 for Attention Deficit Hyperactivity Disorder coordinates care for each child in placement who is under age 18 who is also being treated for another psychiatric disorder by another prescriber.

(b) When a child in placement who is under 18 is receiving psychotropic medication, the resource family parent shall maintain a medication log indicating the child's name, the type of psychotropic medication, and the date and time the medication is administered.

§ 3A:51-7.5 Personal care and hygiene

(a) Level I personal care and hygiene requirements are as follows:

1. The resource family parent shall provide the child in placement with appropriate hygiene supplies.

2. For a child in placement unable to provide for his or her own personal care and hygiene, the resource family parent shall bathe and groom the child.

3. The resource family parent shall ensure that each child in placement has the opportunity for at least eight hours of uninterrupted sleep each night.

(b) The resource family parent shall instruct the child in placement in age-appropriate personal care, hygiene, and grooming habits.

(c) The resource family parent may permit a child in placement to maintain cosmetics and personal hygiene supplies, as developmentally appropriate.

§ 3A:51-7.6 Environmental sanitation and hygiene

(a) Level I environmental sanitation and hygiene requirements are as follows:

1. The resource family parent shall ensure that disposable gloves, which shall be discarded after each use, are used when any person in the home has contact with blood, vomit, urine, fecal matter, or other body secretions of any person known to have an infectious disease.

2. The resource family parent shall ensure that all items in the home and outdoors that come into contact with blood, vomit, urine, fecal matter, or other body secretions are washed and disinfected with a commercially prepared disinfectant whose label indicates it kills bacteria, viruses, and parasites.

3. Disinfectant shall be used in accordance with label instructions.

4. Items to be washed and disinfected shall include:

i. Bedding and clothing;

ii. Furniture and carpeting;

iii. Toilet seats, sinks and faucets;

iv. Fever thermometers; and

v. Mops, washcloths, towels and sponges that were used in the clean-up.

5. The resource family parent shall ensure that all persons in the home thoroughly wash their hands with a disinfectant soap after each incident of coming into contact with blood, vomit, urine, fecal matter, or other body secretions.

§ 3A:51-8.1 Transportation and vehicle safety requirements

(a) Level I transportation and vehicle safety requirements are as follows:

1. Each resource family parent shall provide or arrange for the routine transportation needs of each child in placement.

2. Each resource family parent or household member, who provides transportation to a child in placement shall have:

i. A current driver's license;

ii. Automobile insurance coverage; and

iii. A vehicle with ample space, seatbelts and age-appropriate safety seats for each child placed with him or her.

3. The resource family parent shall not knowingly allow a child in placement to ride with a driver who does not have a current driver's license, automobile insurance, or a seat belt or safety seat for the child in placement.

Title 3A, Chapter 52 -- Manual of Requirements for Child Care Centers

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 30:5B-1 through 15.1.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2017 d.034, effective January 31, 2017.

See: 48 N.J.R. 1877(a), 49 N.J.R. 413(a).

Chapter 52, Manual of Requirements for Child Care Centers, was readopted as R.2017 d.034, effective January 31, 2017.

§ 3A:52-1.1 Legal authority

(a) This chapter is promulgated pursuant to the Child Care Center Licensing Act, N.J.S.A. 30:5B-1 et seq.

(b) Under the laws specified in (a) above, the Department of Children and Families is authorized to:

1. License certain public and private child care centers that are maintained for the care, development or supervision of six or more children under 13 years of age for less than 24 hours a day;

2. Inspect and examine the physical plant or facilities, including, but not limited to, storage areas and additional floor levels, and program of a child care center without delay or an escort, and inspect all documents, records, files, or other data maintained pursuant to the above-referenced law during the center's normal operating hours and without prior notice; and

3. Request the appropriate State and local fire, health and building officials to conduct examinations and inspections to determine a center's compliance with State and local ordinances, codes and regulations. The inspections shall be conducted and the results reported to the Department within 60 days after the request.

(c) Under the laws specified in (a) above, the Department of Children and Families is authorized to issue a Certificate of Life/Safety Approval to a center that:

1. Operates on a seasonal or short-term basis for eight weeks or less and does not offer a continuous program that extends across the three-year period of licensure; or

2. Was operating on or before May 16, 1984 and was exempt from the licensing provisions because it was operated by an aid society of a properly organized and accredited church.

(d) Centers specified in (c)1 and 2 above are required to comply with the physical facility; life/safety; administration and control of medication; environmental sanitation; supervision, minimum staffing, and discipline requirements; and communicable disease reporting provisions of this chapter. Centers with Certificates of Life/Safety Approval may secure regular licenses on a voluntary basis, as long as they comply with all provisions of this chapter.

(e) To be eligible for a license, a center shall demonstrate to the satisfaction of the Department of Children and Families, or the duly authorized agency, that the center complies with all applicable provisions of this chapter.

(f) All applicable requirements shall be met by all child care centers, unless the rules are specified as "for early childhood programs" or "for school-age child care programs."

(g) Responsibility for ensuring that centers comply with the provisions of the laws cited in (a) above and with provisions of this chapter is hereby delegated by the Department of Children and Families to the Office of Licensing.

(h) When a person intends to care for six or more children under 13 years of age, he or she shall apply for and secure from the Office of Licensing a license to operate a child care center. Once licensed, the center is subject to all applicable provisions of this chapter, even if the number or ages of the children attending the center at a particular time should fall outside the definition of a center, as specified in N.J.A.C. 3A:52-1.2(a).

(i) The Office cannot complete initial program inspections unless six or more children are present at the center.

§ 3A:52-1.2 Definition of child care center

(a) "Child care center" or "center" means any home or facility, by whatever name known, which is maintained for the care, development, or supervision of six or more children under 13 years of age who attend for less than 24 hours a day.

1. For a facility that is located in a sponsor's or sponsor representative's home, the Office of Licensing shall not count the children residing in the sponsor's or sponsor representative's home in determining whether the facility is serving the minimum number of children that would require it to be licensed as a center.

(b) The term "child care center" shall include, but not be limited to, day care centers; drop-in centers; night-time centers; recreation-type centers sponsored and operated by a county or municipal government recreation or park department or agency; day nurseries; nursery and play schools; cooperative child centers; centers for children with special needs; centers serving sick children; infant-toddler programs; school-age child care programs; employment-related centers; centers that had been licensed by the Department of Human Services prior to the enactment of the Child Care Center Licensing Act of 1984; and kindergartens and pre-kindergartens that are not an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth.

(c) The term "child care center" shall not include the following programs, since they do not meet the definition of a child care center:

1. A program serving fewer than six children who are below 13 years of age;

2. A program, such as that located in a bowling alley, health spa or other facility, in which:

i. Each child attends on a drop-in basis for no more than two hours; and

ii. The parent of each child attending the program is in the same building, is readily accessible at all times on an on-call basis, and is able to resume control of the child immediately;

3. A child care program operating within a geographic area, enclave, or facility that is owned or operated by the Federal government;

4. A family day care home that is registered pursuant to the Family Day Care Provider Registration Law, N.J.S.A. 30:5B-16 et seq.;

5. Programs that offer activities for children who attend at their own discretion on an "open door" basis, where there is no agreement, written or implied, between the program and the parent for the program to assume responsibility for the care of the child; and

6. A program offering child care on an ad hoc, sporadic, and isolated basis in order to meet an emergency or special need, such as during emergency school closings, conferences, or training sessions.

§ 3A:52-1.3 Programs exempt from licensure

(a) The following programs are exempt from licensure pursuant to the laws specified in N.J.A.C. 3A:52-1.1(a):

1. Programs operated by the board of education of a local public school district which is responsible for their implementation and management;

2. Kindergartens, pre-kindergarten programs, or child care centers that are operated by, and are an integral part of, a private educational institution or system providing elementary education in grades kindergarten through sixth;

i. For purposes of this paragraph, operation of a program by a private educational institution or system shall require direct operation and payment of staff by the operating institution or system.

ii. For purposes of this paragraph, a program is an integral part of a private educational institution or system if the program and the institution or system can reasonably demonstrate integration of the program based on geographic proximity, commonality of enrollment, and continuation of enrollment between the program and the institution or system, commonality of staffing, cohesion of an academic curriculum between programs, or some combination of the above.

3. Centers or special classes operated:

i. Primarily for religious instruction. To qualify for an exemption from licensing under this paragraph, a center or special class must:

a) Be an integral part of a bona fide church or religion;

b) Serve only children who are two years of age or older;

c) Provide a program that is composed primarily of religious instruction in which the curriculum is related to religious themes, stories, or teachings; and

d) For children under six years of age, operate and provide religious instruction for not more than two hours on any day; or

4. For the temporary care of children while persons responsible for such children are attending religious services. To qualify for an exemption from licensure under this provision, a center or special class must:

i. Provide care only for the children of participants in religious services that are an integral part of a bona fide church or religion;

ii. Be arranged by and responsible to the church or religion; and

iii. Provide child care only for the duration of time the services are in progress;

5. Programs of specialized activities or instruction for children that are not designed or intended for child care purposes, including, but not limited to: Boy Scouts, Girl Scouts, 4-H Clubs, Junior Achievement, and commercial indoor playground or sports centers where parents remain with pre-

school children; and single activity programs, such as: athletics, gymnastics, hobbies, art, music, dance, and craft instruction, which are supervised by an adult, agency, or institution. To qualify for an exemption from licensing under this paragraph, a program must:

i. Provide activities that are supervised on a full-time basis by an adult; and

ii. Provide only a single instruction or activity program. For children under six years of age, such single instruction or activity programs shall be limited to not more than two hours on any day;

6. Homework or tutorial programs that submit documentation demonstrating that:

i. Time frames are developmentally appropriate for the age group served and children under six years of age do not attend the program for more than two hours;

ii. The tutorial or homework instruction is not designed for child care purposes;

iii. The tutorial or homework program is supervised on a full-time basis by an adult;

iv. There is no agreement, written or implied, between the tutorial or homework program and the parent to assume responsibility for the care of the child; and

v. There is no agreement, written or implied, between the tutorial or homework program that transportation is provided by the program.

7. Youth camps required to be licensed under the Youth Camp Safety Act of New Jersey, pursuant to N.J.S.A. 26:12-1 et seq. To qualify for an exemption from licensing under this provision, a program must have a valid and current license as a youth camp, issued by the New Jersey Department of Health. A youth camp sponsor who also operates a child care center shall also secure a license from the Office of Licensing for the center;

8. Regional schools operated by, or under contract with, the Department of Children and Families; and

9. Privately operated infant and preschool programs that are approved by the Department of Education to provide services exclusively to local school districts for children with disabilities, pursuant to N.J.S.A. 18A:46-1 et seq.

§ 3A:52-1.4 Definitions of other terms

The following words and terms, when used in this chapter, shall have the following meanings:

"Child" means any person under 13 years of age.

"Denial of a license or a Certificate of Life/Safety Approval" means the withholding by the Office of Licensing of an initial license or Certificate of Life/Safety Approval, for which a center has applied.

"Department" means the New Jersey Department of Children and Families.

"Director" means the on-site staff member responsible for the daily operation and management of the center.

"Early childhood program" means a supervised group program serving six or more children under six years of age.

"Health care provider" means a physician, nurse practitioner, physician's assistant, or other health care professional who is licensed or otherwise authorized by the state in which he or she practices to perform the applicable health care services specified in this chapter.

"Licensed capacity" means the maximum number of children a center can serve in the rooms approved as licensed space by the Office of Licensing.

"Office of Licensing" or "Office" means the Office of Licensing, New Jersey Department of Children and Families.

"Parent" means a birth or adoptive parent, legal guardian, or any other person having responsibility for, or custody of, a child.

"Person" means any individual, agency, corporation, company, association, organization, society, firm, partnership, joint stock company, the State or any political subdivision thereof.

"Refusal to renew a license or a Certificate of Life/Safety Approval" means the non-issuance of a license or a Certificate of Life/Safety Approval by the Office of Licensing to a center after its existing license or Certificate of Life/Safety Approval has expired.

"Regular Certificate of Life/Safety Approval" or "Regular Certificate" means a document issued by the Office of Licensing to a center that is eligible for such approval, indicating that the center is in full compliance with N.J.A.C. 3A:52-1.1(c).

"Regular license" means a document issued by the Office of Licensing to a center indicating that the center is in full compliance with all applicable provisions of this chapter.

"Revocation of a license or a Certificate of Life/Safety Approval" means a permanent removal of a center's current license or Certificate of Life/Safety Approval to operate.

"School-age child care program" means a supervised group program serving six or more children under 13 years of age who are enrolled in a public or private school, when their classes are not in session. The term, school-age child care program, may also include programs that serve: kindergarten children before or after their regular school session; and pre-kindergarten children before or after their regular school session if the pre-kindergarten children attend the program for no more than three and a half hours.

"Shall" denotes a provision of this chapter that a center must meet to qualify for a license.

"Should" denotes a recommendation reflecting goals towards which a center is encouraged to work.

"Sponsor" means any person(s), corporation, or governing board owning or legally responsible for operating a center.

"Sponsor representative" means any person who represents or acts on behalf of a sponsor.

"Staff member" or "staff" means any person(s) employed by or working for or at a center on a regularly scheduled basis. This includes full-time, part-time, voluntary, substitute, contract or consulting personnel, whether compensated or not.

"Suspension of a license or a Certificate of Life/Safety Approval" means a temporary removal of a center's current license or Certificate of Life/Safety Approval to operate.

"Temporary Certificate of Life/Safety Approval" or "Temporary Certificate" means a document issued by the Office of Licensing to a center that is eligible for such approval, indicating that the center is in substantial compliance with N.J.A.C. 3A:52-1.1(c), provided that no serious or imminent hazard affecting the children exists in the center.

"Temporary license" means a document issued by the Office of Licensing to a center that is in substantial compliance with the applicable provisions of this chapter, provided that no serious or imminent hazard affecting the children exists in the center.

§ 3A:52-1.5 Hours of care

(a) Centers operating during the normal waking hours shall not care for a child on a regular basis for more than 12 hours within a 24-hour period.

(b) Centers operating during the normal sleeping hours shall not care for a child on a regular basis for more than 16 hours within a 24-hour period.

§ 3A:52-2.1 Application for a license

(a) No person shall operate a center without first securing a license from the Office of Licensing. Any person who operates a center that does not have a valid license, or who uses fraud or misrepresentation in obtaining a license or who advertises or provides any service not authorized by a valid license, or who violates any other provision of the laws specified in N.J.A.C. 3A:52-1.1(a), is guilty of a crime of the fourth degree, pursuant to N.J.S.A. 30:5B-13.

(b) A person applying for an initial license or renewal license to operate a center or relocation of a center shall submit a completed application to the Office of Licensing at least 45 days prior to the anticipated opening of the center or to the expiration of its existing regular license.

(c) An applicant for an initial or renewal license shall submit, with the completed application form, the specified licensing fee listed in the chart below, in the form of a check or money order made payable to the "Treasurer, State of New Jersey."

LICENSING FEES FOR CENTERS

Center's Licensed Capacity
Three Year Fee
6-15
$ 110.00
16-30
$ 140.00
31-60
$ 165.00
61-100
$ 195.00
101-180
$ 220.00
181 and up
$ 250.00

(d) In lieu of the fees specified in (c) above, an applicant for an initial or renewal license who operates a Head Start Center, pursuant to 42 U.S.C. §§ 9831 et seq., or a school-age child care program that does not charge a fee or require other compensation or services from parents, shall submit with the completed application form a $ 110.00 licensing fee, in the form of a check or money order made payable to the "Treasurer, State of New Jersey."

(e) If the application is denied, or the center does not open, the Office of Licensing shall refund the licensing fee to the applicant.

(f) The licensing fee will not be refunded once the Office of Licensing issues the center a license.

§ 3A:52-2.2 Issuance of a license

(a) The Office of Licensing shall issue a regular license to a center that has achieved full compliance with all applicable provisions of this chapter.

(b) If the Office of Licensing determines that a center is in substantial compliance with, but does not meet all applicable provisions of this chapter, and provided that there is no serious or imminent hazard to the health, safety, well-being, and development of the children, the Office of Licensing shall issue a temporary license to the center and indicate in writing the steps the center must take to secure a regular license. When a center applies for its first license, a temporary license shall not be issued until the center has submitted to the Office of Licensing a satisfactory Certificate of Occupancy and documentation of compliance with State requirements, as specified in N.J.A.C. 3A:52-5.2 through 5.6.

(c) A temporary license may be issued for a period not to exceed six months. The Office of Licensing may issue as many temporary licenses as it deems necessary. However, a center shall not operate pursuant to temporary licenses for more than 18 months.

(d) Each licensing period, which may include the issuance of one or more temporary licenses and/or one regular license, shall be three years.

1. In determining the expiration date of the first regular license, the Office of Licensing shall compute the three-year licensing period from the date of issuance of the first temporary or regular license.

2. In determining the expiration date of a renewal regular license, the Office of Licensing shall compute the three-year licensing period from the date on which the center's previous regular license expired.

(e) The license shall be posted in a prominent location within the center and in each building associated with the center.

(f) A center shall not make claims contrary to its license, either in advertising or in any written or verbal announcement or presentation.

(g) A facility or program caring for children shall not claim in advertising, or in any written or verbal announcement or presentation, to be a licensed center unless it has secured a license from the Office of Licensing.

(h) A center shall not claim that it is licensed by any State department or agency other than the New Jersey Department of Children and Families, or that it is accredited by any State department.

(i) For those centers that do not have children in attendance for a period of six months or more, the centers shall be deemed as closed and a new license shall be issued should the center decide to serve children in the future.

§ 3A:52-2.3 Location of a center

(a) The license shall be issued to a specific center sponsor or sponsor representative at a specific location and shall not be transferable.

(b) When two or more buildings are, or will be, utilized to accommodate centers operated by the same sponsor or sponsor representative, the sponsor or sponsor representative shall apply to the Office of Licensing for either:

1. A separate license for each center in each building; or

2. A single license covering all the buildings that comprise a single center provided that:

i. The buildings are on the same or contiguous properties;

ii. The programs have the same director; and

iii. The Office of Licensing determines that issuance of a single license would not be detrimental to the health, safety, well-being, and development of the children served.

(c) A center shall not be located near or adjacent to areas determined by the Office of Licensing to be hazardous to the physical health and safety of the children.

(d) The requirements for co-location of a center within a multi-use building are as follows:

1. The sponsor or sponsor representative of a center that is, or seeks to be, co-located in a multi-use building shall indicate on its application the nature of the co-location.

2. Prior to approving the site, the Office of Licensing shall determine that the multi-use site does not pose a serious risk to the health, safety, or well-being of the children.

3. During operating hours, the Office of Licensing may require the center to:

i. Operate in a separate room, floor, or section of the building;

ii. Have or use a separate entrance or toilet facility;

iii. Meet any other physical plant, staffing, program, or other operational requirements that are deemed necessary to protect the children from serious risk of harm stemming from the co-location;

iv. Not share common areas, such as hallways, gyms, or bathrooms; and

v. Have a schedule for outdoor time, if the outdoor play area is shared.

4. The sponsor or sponsor representative of a center that has been approved to be located in a multi-use building shall notify the Office of Licensing of any change in use by other occupants of the building, as specified in N.J.A.C. 3A:52-3.2(a).

(e) All new or relocating centers, after March 6, 2018, shall not be located in a building that was formerly a dry cleaner or funeral home.

§ 3A:52-2.4 Denying, suspending, revoking, or refusing to renew a license or a Certificate of Life/Safety Approval

(a) The Office of Licensing may deny an application or suspend, revoke, or refuse to renew a license or a Certificate of Life/Safety Approval for good cause, including the following, as applicable:

1. Failure or refusal to comply with all applicable provisions of the laws specified in this chapter;

2. Failure to comply with the provisions of this chapter shall also prevent a sponsor from obtaining a license for an additional child care center;

3. Violation of the terms and conditions of a license or a Certificate of Life/Safety Approval;

4. Use of fraud or misrepresentation in obtaining a license or a Certificate of Life/Safety Approval or in the subsequent operation of the center;

5. Refusal to furnish the Department with files, reports, or records, as required by this chapter;

6. Refusal to permit an authorized representative of the Department to gain admission to the center or to conduct an inspection or investigation during the center's operating hours;

7. Any activity, policy, or staff conduct that adversely affects or presents a serious hazard to the education, health, safety, well-being, or development of a child attending a center, or that otherwise demonstrates unfitness by a sponsor, sponsor representative, or staff member(s) to operate a center;

8. Failure to provide developmental activities that meet the physical, social, emotional, and cognitive needs of the children served;

9. Failure by the sponsor or sponsor representative to secure and maintain on file conviction disclosures, as specified in N.J.A.C. 3A:52-4.1(b)3, Child Abuse Record Information (CARI) background checks, as specified in N.J.A.C. 3A:52-4.10, or Criminal History Record Information (CHRI) fingerprint background checks, as specified in N.J.A.C. 3A:52-4.11;

10. A determination by the Department's Institutional Abuse Investigation Unit that children in the center are at risk of harm;

11. Refusal by the sponsor or sponsor representative to consent to a Child Abuse Record Information background check for himself or herself, or to terminate the employment of a staff member who refuses to consent to a Child Abuse Record Information background check;

12. Refusal by the sponsor or sponsor representative to terminate the employment of a staff member when a Child Abuse Record Information background check reveals that an incident of child abuse or neglect has been substantiated against the staff member;

13. A Child Abuse Record Information background check that reveals that an incident of child abuse or neglect has been substantiated against the sponsor or sponsor representative; or

14. Failure to comply with the provisions of P.L. 1998, c. 35, which prohibit smoking in child care centers, as specified in N.J.A.C. 3A:52-7.7(d).

(b) The Office of Licensing shall provide written notice to the sponsor or sponsor representative if it intends to deny an application or suspend, revoke, or refuse to renew a license or a Certificate of Life/Safety Approval. The notice shall specify the Office of Licensing's reasons for such action.

(c) If the Office of Licensing suspends a center's license or Certificate of Life/Safety Approval to prevent the imminent risk of harm to children served by the center, the Office of Licensing may reinstate the suspended license or Certificate of Life/Safety Approval upon the center's compliance with all applicable provisions of this chapter.

(d) If the Office of Licensing denies an application or revokes or refuses to renew a center's license or Certificate of Life/Safety Approval, as specified in (a) above, the sponsor or sponsor representative of the center shall be prohibited from reapplying for a license or a Certificate of Life/Safety Approval for one year from the date of the denial, revocation, or refusal to renew. After the one-year period has elapsed, the sponsor or sponsor representative may submit to the Office of Licensing a new application for a license or a Certificate of Life/Safety Approval.

(e) Each license and each Certificate of Life/Safety Approval issued by the Office of Licensing to a center is the property of the State of New Jersey. If the Office of Licensing suspends or revokes a license or a Certificate of Life/Safety Approval, the center shall return the license or Certificate of Life/Safety Approval to the Office of Licensing immediately.

(f) If the Office of Licensing determines to suspend, revoke, or refuse to renew the center's license or Certificate of Life/Safety Approval, the Office of Licensing shall notify the parent of each enrolled child of the action.

1. Upon notification by the Office of Licensing of an action against the center's license or Certificate, the center shall provide to the Office of Licensing the name and mailing address of each child's parent.

2. Within 20 days after notifying the center of the action, the Office of Licensing shall:

i. Notify parents of the action against the center's license or Certificate;

ii. Advise parents of the center's right to contest the action through an administrative hearing before the Office of Administrative Law;

iii. Inform parents of the name, address, and telephone number of the resource and referral services offered by the appropriate State-contracted Child Care Resource and Referral agency for assistance in finding alternative child care arrangements, if necessary; and

iv. Notify the appropriate State-contracted Child Care Resource and Referral agency of the action.

(g) The Office may require the center to submit in writing a corrective action plan indicating the time frame and the actions the center shall take to comply with all applicable provisions of this chapter.

§ 3A:52-2.5 Administrative hearings

(a) Before the Office of Licensing's decision to deny an application or suspend, refuse to renew, or revoke a center's license or Certificate of Life/Safety Approval becomes effective, the Office of Licensing shall afford the center an opportunity to request an administrative hearing, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) As long as the Department determines that the children are not at risk and no serious or imminent hazards exist, the Office of Licensing may permit a center that has requested an administrative hearing, as specified in (a) above, to continue to operate until a final decision is rendered as a result of the hearing.

§ 3A:52-2.6 Complaints

(a) Whenever the Office of Licensing receives a report questioning the licensing status of a program or center or alleging that a licensed center is violating provisions of this chapter, the Office of Licensing shall ensure that the allegation is promptly investigated to determine whether the complaint is substantiated.

(b) After the report of the investigation has been completed, the Office of Licensing shall notify the sponsor or sponsor representative in writing of the results of the investigation, pursuant to the State Open Public Records Law, N.J.S.A. 47:1A-1 et seq., except for any information not permitted to be disclosed pursuant to N.J.S.A. 9:6-8.10a.

(c) Whenever the Department, through its Office of Licensing, Institutional Abuse Investigation Unit, or local offices, conducts complaint investigations, the center shall cooperate with all Department investigators.

§ 3A:52-2.7 Public access to the Office of Licensing's records

Licensing files maintained by the Office of Licensing are public records and shall be readily accessible for examination by any person, under the direction and supervision of the Office of Licensing, except when public access to records is restricted, in accordance with the Open Public Records Law or other applicable statutes.

§ 3A:52-2.8 Procedures for securing a Certificate of Life/Safety Approval

(a) A center that is eligible for a Certificate of Life/Safety Approval, as specified in N.J.A.C. 3A:52-1.1(c), may apply for and secure such a Certificate from the Office of Licensing by complying with all provisions of N.J.A.C. 3A:52-2.1 through 2.8, except for 3A:52-2.1(c) and (d); and with all provisions of N.J.A.C. 3A:52-4.3, 4.10, 4.11, 5.2 through 5.6, 6.6, 7.5, 7.7, 7.8, 7.10, and 9.1 through 9.8.

(b) The applicant shall submit to the Office of Licensing a $ 110.00 fee in the form of a check or money order made payable to the "Treasurer, State of New Jersey," along with the completed application for a Certificate of Life/Safety Approval.

(c) When an applicant is the sponsor or sponsor representative of a licensed child care center and seeks to operate a seasonal or short-term program, as specified in N.J.A.C. 3A:52-1.1(c)1, at the same site, the applicant shall submit an application for a Certificate of Life/Safety Approval with no additional fee required. The sponsor or sponsor representative shall receive a Certificate of Life/Safety Approval in addition to a license.

(d) The Office of Licensing shall review the application and accompanying materials and conduct an on-site inspection of the center to determine whether it meets all applicable provisions of this chapter as specified in (a) above.

1. If the center is found to be in full compliance, the Office of Licensing shall issue a Regular Certificate of Life/Safety Approval to the center.

2. If the center is found to be in substantial compliance, and provided that there is no serious or imminent hazard to the health, safety, well-being, and development of the children, the Office of Licensing shall issue a Temporary Certificate of Life/Safety Approval.

3. When a center applies for its first Certificate of Life/Safety Approval, a Temporary Certificate of Life/Safety Approval shall not be issued until the center has submitted to the Office of Licensing a satisfactory Certificate of Occupancy and documentation of compliance with State requirements, as specified in N.J.A.C. 3A:52-5.2 through 5.6.

§ 3A:52-3.1 Administrative responsibility

(a) The sponsor or sponsor representative shall be legally responsible and held accountable by the Office of Licensing for the overall operation of the center and for ensuring the center's compliance with all applicable provisions of this chapter.

(b) When the sponsor is an entity owned or operated by two or more individuals, a corporation, or governing board, the sponsor shall designate an individual to represent the interests and act on behalf of the sponsor. For school-age child care programs, the sponsor's representative shall have a bachelor's degree.

§ 3A:52-3.2 Reporting requirements

(a) The center shall notify the Office of Licensing verbally of any of the following changes or events by the next working day after the center learns of their occurrence:

1. Injury or illness that results in the admittance to a hospital or death of a child, as specified in N.J.A.C. 3A:52-7.10(b);

2. Change in use by other occupants of a multi-use building in which the center is located, as specified in N.J.A.C. 3A:52-2.3(d);

3. Permanent closing of the center;

4. Damage to the premises of the center caused by fire, accident or the elements;

5. Proposed use of emergency space, including relocation or use of rooms not approved by local municipal officials or by the Office of Licensing, as specified in N.J.A.C. 3A:52-5.3(q); and

6. Any conviction(s) or guilty plea(s) of the sponsor or sponsor representative, director, or any staff member, as specified in N.J.A.C. 3A:52-4.1(b)3, (c)2, and (d)2.

(b) The center shall notify the Office of Licensing verbally at least three working days in advance of any proposed change to the licensing information previously submitted to the Office of Licensing on the completed application, including, but not limited to, changes in location and in keeping with the requirements specified at N.J.A.C. 3A:52-5.3(i). The center shall notify the Office of Licensing in writing within 30 calendar days of any such change(s).

§ 3A:52-3.3 Center records

(a) Requirements for access to center records are as follows:

1. The center's records shall be open for inspection by authorized representatives of the Office of Licensing.

2. The center's records shall be open for inspection by authorized representatives of the Department's Institutional Abuse Investigation Unit (IAIU), provided that they may only secure information about children under the Department's supervision.

(b) Requirements for maintenance of center records are as follows:

1. Children's records shall be maintained on file for one year after the child is no longer enrolled at the center.

i. Records for children currently enrolled at the center shall be maintained on file at the center, unless otherwise specified in this chapter.

ii. Records for children no longer enrolled at the center shall be maintained on file either at the center or at a central administrative office.

2. Staff records shall be maintained on file for one year after the staff member is no longer working at the center.

i. Records for staff members currently working at the center shall be maintained on file at the center.

ii. Records for staff members no longer working at the center shall be maintained on file either at the center or at a central administrative office.

3. All other records shall be maintained on file at the center for one year after the record is made or received, unless otherwise specified in this chapter.

§ 3A:52-3.4 Comprehensive general liability insurance

The sponsor or sponsor representative shall secure comprehensive general liability insurance coverage for the center and shall maintain on file a copy of the insurance policy or documentation of current insurance coverage.

§ 3A:52-3.5 Communication requirements

(a) The center shall have:

1. Its own telephone; and

2. An e-mail account and address checked regularly by the Director. E-mail access need not be available on-site.

(b) The center shall provide parents of all enrolled children with its telephone number, either in writing or by e-mail. This telephone number shall provide parents direct on-site contact during operating hours.

(c) The center shall promptly inform the Office of Licensing of changes to its e-mail address or telephone number.

§ 3A:52-3.6 Information to Parents document

(a) The center shall give to the parent(s) of every enrolled child and to every staff member, a written Information to Parents document designated by the Office of Licensing and indicating that the center is required to:

1. Be licensed by the Office of Licensing, Department of Children and Families;

2. Comply with all applicable provisions of this chapter;

3. Post its license in a prominent location within the center;

4. Retain a current copy of this chapter and make it available for parents' review;

5. Indicate how parents can secure a copy of this chapter and obtain information about the licensing process from the Office of Licensing;

6. Make available to parents, upon request, the Office of Licensing's Life/Safety and Program Inspection/Violation and Complaint Investigation Summary report(s) on the center, as well as any letters of enforcement or other actions taken against the center during the center's current licensing period;

7. Post a listing or diagram of those rooms and areas that have been approved by the Office of Licensing for children's use;

8. Comply with the inspection and investigation functions of the Department, including the interviewing of staff members and children;

9. Afford parents the opportunity and time to review and discuss with the center director, sponsor, or sponsor representative any questions or concerns about the policies and procedures of the center or whether the center is in compliance with all applicable provisions of this chapter;

10. Advise parents that if they believe or suspect that the center is violating any requirement of this chapter, they may report such alleged violations to the center sponsor, sponsor representative, or director or to the Office of Licensing;

11. Afford parents of enrolled children an opportunity to participate in the center's operation and activities and to assist the center in complying with licensing requirements;

12. Afford parents of enrolled children the opportunity to visit the center at any time during the center's hours of operation to observe its operation and program activities without having to secure prior approval;

13. Provide parents with advance notice of any field trip, outing or special event involving the transportation of children away from the center, and, for each event, secure the written consent of the parent(s) before taking a child on such a field trip, outing or special event;

14. Post a copy of the center's written statement of policy on the disciplining of children by staff members in a prominent location within the center, and make a copy of it available to parents upon request;

15. Indicate, through this document, that any person who has reasonable cause to believe that a child has been or is being subjected to child abuse or neglect is required by N.J.S.A. 9:6-8.10 to report such allegations to the State Central Registry Hotline (1-877 NJ ABUSE/1-877-652-2873) immediately, and indicate that such reports may be made anonymously;

16. Indicate through this document how parents and staff members may secure information about child abuse and neglect from the Department;

17. Inform parents of the center's policy on the release of children;

18. Inform parents of the center's policy on administering medication and health care procedures;

19. Provide parents with a copy of the center's policy on management of communicable diseases;

20. Provide parents with a copy of the center's policy on the expulsion of children from enrollment;

21. Inform parents that the center is required to provide reasonable accommodations for children and parents with disabilities and to comply with the New Jersey Law Against Discrimination (LAD), P.L. 1945, c. 169 (N.J.S.A. 10:5-1 et seq.), and the Americans with Disabilities Act (ADA), P.L. 101-336 (42 U.S.C. §§ 12101 et seq.), and indicate that anyone who believes the center is not in compliance with these laws may contact the Division on Civil Rights in the New Jersey Department of Law and Public Safety for information about filing an LAD claim at (609) 292-4605 (TTY users may dial 711 to reach the New Jersey Relay Operator and ask for (609) 292-7701), or may contact the United States Department of Justice for information about filing an ADA claim at (800) 514-0301 or (800) 514-0383 (TTY); and

22. Inform parents that the center is required to maintain and update, at least annually, a list from the Consumer Product Safety Commission (CPSC) regarding unsafe products and make the list available to staff and parents or provide parents with the CPSC website at www.cpsc.gov/Recalls.

(b) The center shall distribute a copy of the Information to Parents document to each child's parent(s) upon enrollment and to every person upon becoming a staff member and secure and maintain on file a record of each parent's and staff member's signature attesting to receipt of the document.

1. The center shall maintain on file a copy of the Information to Parents document.

§ 3A:52-4.1 General requirements for sponsor, sponsor representative, director, and all staff members

(a) The sponsor, sponsor representative, director, and every staff member shall:

1. Be of good character and reputation;

2. Be in sufficient physical, mental and emotional health to perform his or her job duties satisfactorily; and

3. Possess skills, attributes, and characteristics conducive to and suitable for sponsoring a center or dealing with children, as applicable.

(b) Prior to hiring or utilizing a director or a staff member who will be working at the center on a regularly scheduled basis, the sponsor, sponsor representative, or director shall complete and maintain on file for each individual a Staff Records Checklist, signed by the sponsor, sponsor representative, or director and designated by the Office of Licensing, indicating that the center has obtained documentation of the following:

1. The individual's name, address, telephone number and signature;

2. Education and work experience;

3. Disclosure of the presence or absence of conviction(s) for crimes or disorderly persons offenses;

4. Completion of a Child Abuse Record Information background check, as specified in N.J.A.C. 3A:52-4.10, and a Criminal History Record Information fingerprint background check, as specified in N.J.A.C. 3A:52-4.11;

5. Completion of a Mantoux tuberculin skin test, as specified in N.J.A.C. 3A:52-7.4(a), and physical examination, as specified in N.J.A.C. 3A:52-7.4(b);

6. The staff member's signature attesting to the receipt of the policy statement on the disciplining of children by staff members, as specified in N.J.A.C. 3A:52-6.6(e);

7. The staff member's signature attesting to the receipt of the Information to Parents document, as specified in N.J.A.C. 3A:52-3.6(b); and

8. Two written or verbal references on each individual.

i. The references shall be secured from former employers or other persons who have knowledge of the individual's work experience or education and who can attest to the individual's suitability to work with children.

ii. The verbal references shall be documented in writing by the sponsor, sponsor representative, or director.

(c) The sponsor or sponsor representative shall:

1. Maintain on file, regarding himself or herself, the results of the Child Abuse Record Information background check and the Criminal History Record Information fingerprint background check, as specified in (b)4 above; and

2. Disclose to the Office of Licensing, in writing, the following:

i. The sponsor or sponsor representative's name, address, and telephone number;

ii. The sponsor or sponsor representative's signed statement of the presence or absence of conviction(s) for crimes or disorderly persons offenses; and

iii. Information about and circumstances surrounding any previous denial, suspension, revocation, or non-renewal of a license to own or operate a center either by the Office of Licensing or by the licensing agency of another state.

(d) The staff records specified in (a) through (c) above shall be maintained on file as follows:

1. The Staff Records Checklist for the current director and all staff members currently working at the center shall be maintained on file at the center.

2. The Staff Records Checklist for the former director and staff members no longer working at the center shall be maintained on file either at the center or at a central administrative office. The checklist shall be updated to indicate the reason for discontinuance of employment.

3. Documentation of the information listed in the Staff Records Checklist shall be maintained on file either at the center or at a central administrative office.

(e) Failure by a sponsor, sponsor representative, director, or other staff member to comply with the requirements specified in (a) through (c) above or any evidence demonstrating unfitness or unsuitability to fulfill the responsibilities and duties of his or her position or to serve or deal with children in an appropriate manner shall constitute grounds for one or more of the following actions:

1. Removal of the sponsor, sponsor representative, director, or other staff member from his or her position;

2. Reassignment to other duties that do not involve contact with children;

3. Termination from the center; or

4. Denial, refusal to renew, suspension or revocation of the center's license.

(f) Evidence of a previous denial, suspension, revocation, or non-renewal of a license, as specified in (c)2iii above, shall not in and of itself result in an automatic disqualification of the sponsor, sponsor representative, prospective sponsor, or prospective sponsor representative to secure a license for another or the same center, but shall constitute grounds for the Office of Licensing to investigate the circumstances that led to the original negative action and to make a determination as to whether to reject or process the new application for a license.

§ 3A:52-4.2 Staffing requirements

(a) Each center shall have the following staff members:

1. A sponsor or sponsor representative, who may also serve as the director and as one of the staff members specified in (a)3 below;

2. A director, who may also serve as one of the staff members specified in (a)3 below;

3. One or more of the applicable qualified staff members, as specified in the charts in (b) and (c) below for each program type offered; and

4. Additional staff members, as necessary, to meet staff/child ratio requirements, as specified in N.J.A.C. 3A:52-4.3.

i. If the center offers an early childhood program and a school-age child care program, but has fewer than six children in one of those programs, the center shall only be required to meet the staffing requirements of the program serving six or more children.

ii. If the center offers an early childhood program and a school-age child care program, and has fewer than six children in each program, the center shall meet the staffing requirements in either (b) or (c) below.

(b) For early childhood programs, the following shall apply:

1. Based on the center's licensed capacity, the center shall have one or more head teachers, group teachers, and/or consulting head teachers, as specified in the chart below:

TYPES OF STAFF REQUIRED AT EARLY CHILDHOOD PROGRAMS

Licensed Capacity	**Head Teacher(s)**		**+Group Teacher(s)**		**Consulting Head Teacher**
6-15	1	or	1	or	1
16-30	1	or	(1	and	1)
31-60	1				
61-120	1	and	1		
121-180	1	and	2		

TYPES OF STAFF REQUIRED AT EARLY CHILDHOOD PROGRAMS

181-240	2	and	2
241-300	2	and	3
301-360	3	and	3
361-420	3	and	4
421-480	4	and	4
481-540	4	and	5

2. A staff member who meets the head teacher qualifications, as specified in N.J.A.C. 3A:52-4.6(c), may be utilized as a required group teacher.

3. As an exception to the staffing requirements in the chart above, centers with a licensed capacity of from six to 30 children, 50 percent or more of whom have special needs as a result of a cognitive, socio-emotional or physical disability or disorder, shall have a head teacher.

(c) For school-age child care programs, the following shall apply:

1. Based on center size, the center shall have one or more program supervisors at each site as specified in the chart below:

TYPES OF STAFF MEMBERS REQUIRED AT SCHOOL-AGE CHILD CARE PROGRAMS

Licensed Capacity	**Program Supervisor(s)**
6-180	1
181-360	2
361-540	3

(d) Programs operating at a capacity beyond 540 children shall have an additional program supervisor, as specified in N.J.A.C. 3A:52-4.6(d) for each additional group of 100 children.

§ 3A:52-4.3 Staff/child ratios and supervision

(a) The children shall be supervised directly by a staff member at all times, including during outdoor activities, rest and sleep, and walking through hallways. Toileting procedures shall be supervised by a staff member as appropriate for the ages and developmental needs of the children.

1. The center shall develop and implement an Office of Licensing-approved method to keep track of the location and ensure the safety of all children at all times when under the center's supervision, including the transfer of supervision from and to parents during arrival and departure and the utilization of off-site locations, including playgrounds and field trips.

2. The center shall ensure that all staff members are trained in the method of keeping track of children and know how many children are in their care at all times.

(b) There shall be a minimum of two staff members accompanying children on any field trip, outing, or special event involving children away from the center, even when the appropriate staff/child ratios allow fewer than two staff members.

(c) The following staff/child ratios shall apply, except as specified in (d) through (f) below:

Age	Staff/Child Ratio
Under 18 months	1:4
18 months up to 2 1/2 years	1:6
2 1/2 years up to 4 years	1:10
4 years	1:12
5 years and older	1:15

(d) The following staff/child ratios shall apply during rest or sleep, when the criteria listed in (d)1, 2, and 3 below are met:

Age	**Staff/Child Ratio**
Under 18 months	1:10
18 months to under 2 1/2 years	1:12
2 1/2 years and above	1:20

1. At least one staff member shall be physically present in the room or area in which children are napping and shall be able to summon other staff members without leaving the room or area.

2. A sufficient number of staff members shall be in the facility and readily accessible to ensure compliance with the awake staff/child ratios specified in (c) above.

3. Naptime preparations shall have been completed and all children 18 months or above are resting or sleeping, while all children under 18 months of age are sleeping.

(e) The following staff/child ratios shall apply for centers serving children, 50 percent or more of whom have special needs, as a result of a cognitive, socio-emotional or physical disability or disorder:

Age	Staff/Child Ratio
Under 2 1/2 years	1:3

2 1/2 years of age and over (non-ambulatory)	1:3
2 1/2 years of age and over (ambulatory)	1:5

(f) Centers serving children who are sick shall comply with the variation on staff/child ratios for sick children, as specified in N.J.A.C. 3A:52-8.3(c).

(g) In computing the required number of staff, the center shall apply the applicable staff/child ratios, as specified in (c) through (f) above, to the actual number of children in attendance at the center. The total number of staff members required for a center shall be the sum total of staff members required per room or area within a large room that has been divided by partitions, furniture or other barrier. The number of staff members per room or area within a large divided room shall be computed by dividing the number of children in attendance per room or area within a large divided room at any given time by the staff/child ratio required for the age of the children served. When this resulting figure is any fraction above a whole number, an additional staff member shall be required.

(h) When children of mixed ages requiring different staff/child ratios are in one room or area within a large divided room, the center shall compute the staff/child ratios applicable for each group separately to the nearest tenth decimal. If the resulting cumulative figure for all age groups is any fraction above a whole number, an additional staff member shall be required.

(i) For purposes of determining whether a required staff/child ratio is met, only those staff members who are involved in the direct care and supervision of children shall be counted.

(j) Staff members who are under 18 years of age shall be directly supervised by and visible to a staff member who is 18 years of age or older.

(k) For early childhood programs, the following shall apply:

1. A minimum of two staff members, one of whom shall be at least 18 years of age, shall be present and involved in the care of children when:

i. At least six children are present, who are below six years of age; or

ii. Fewer than six children are present but applicable staff/child ratios, governing children below 18 months of age or children with special needs, require two staff members.

2. The following minimum ages of staff members shall apply for purposes of computing the staff/child ratio:

i. Only staff members who are at least 14 years of age shall be counted for the staff/child ratio; and

ii. Staff members below 16 years of age shall only be utilized when school is not in session, or, if school is in session, only if they are participating in a school/work program.

(l) For school-age child care programs, the following shall apply:

1. A minimum of two staff members, one of whom shall be at least 18 years of age, shall be at the center and involved in the care of children when six or more children are present, except as specified in (l)2 and 3 below.

2. A minimum of one staff member, who shall be at least 18 years of age, shall be at the center and involved in the care of children when all the provisions in (l)2i through iv below are met:

i. Children attend for no more than one and one half hours;

ii. No more than five children present are below six years of age;

iii. No more than 12 children are present; and

iv. An additional adult has agreed to be available and immediately accessible in an emergency.

3. A minimum of one staff member, who shall be at least 18 years of age, shall escort up to 12 children on any walk including walks to and from their school and the center.

4. Only staff members who are at least 16 years of age shall be counted for the staff/child ratio.

§ 3A:52-4.4 Grouping of children

(a) For early childhood programs, the following shall apply for infants (under 18 months of age) and toddlers (18 months to 2 1/2 years of age):

1. A particular staff member shall be assigned as the primary caregiver to each specific group of children, in accordance with applicable staff/child ratios, as specified in N.J.A.C. 3A:52-4.3;

2. A group shall consist of four infants or six toddlers to whom a primary caregiver has been assigned;

3. The primary caregiver shall ensure that the needs of each child in the group are met, including:

i. Feeding the child and following each infant's individual feeding schedule, as specified in N.J.A.C. 3A:52-6.3(b);

ii. Diapering the child, if applicable, as specified in N.J.A.C. 3A:52-7.8(d);

iii. Assisting the child in toilet training, if applicable, in keeping with the center's toilet training policy, as specified in N.J.A.C. 3A:52-7.7(e)3; and

iv. Recording any unusual incidents involving the child and ensuring that the child's parents are informed of them, as specified in N.J.A.C. 3A:52-4.9(b).

4. If more than 12 infants or 20 toddlers occupy an individual room or a specific area within a large room, areas for up to 12 infants or 20 toddlers shall be defined by visible barriers, partitions, or any other room dividers or separations having a height above the eye level of the children who use those areas.

(b) For early childhood programs, the following shall apply for children 2 1/2 years of age and older:

1. A group shall consist of the number of children:

i. Occupying an individual room or occupying a specific area within a large room. The area shall be defined by a visible barrier, partition, or any other room divider or separation having a height above the eye level of the children who use that area; or

ii. Engaged together in a particular activity at any given time, regardless of whether the room or area within a large room is divided or partitioned.

2. Each group shall be limited to a maximum of 20 children except during meals, naptime, outdoor activities, specially scheduled events (for example, parties, community speakers, films, etc.), and daily information sharing sessions (for example, "circle time"), which shall not exceed 15 minutes in duration.

(c) For school-age child care programs, the following shall apply:

1. A group shall consist of the number of children:

i. Occupying an individual room or occupying a specific area within a large room. The area shall be defined by a visible barrier, partition, or any other room divider or separation having a height above the eye level of the children who use that area; or

ii. Engaged together in a particular activity at any given time, regardless of whether the room or area within a large room is divided or partitioned.

2. Each group shall be limited to a maximum of 30 children, except during meals, outdoor activities, and specially scheduled events.

§ 3A:52-4.5 Staff responsibilities

(a) The sponsor or sponsor representative shall:

1. Be responsible for hiring or appointing a director;

2. Ensure that the center complies with all applicable provisions of this chapter; and

3. Designate individuals with the authority and responsibility to:

i. Develop and implement written policies and procedures for the operation of the center, including:

a) A table of organization that illustrates lines of authority, responsibility and communication; and

b) Job descriptions, titles and qualifications for all center staff;

4. Ensure the supervision of all staff members;

5. Ensure that all staff members complete staff orientation and development, as specified in N.J.A.C. 3A:52-4.7 and 4.8;

6. Ensure the establishment of administrative, staff and children's records; and

7. Ensure the establishment of a staff member substitute system.

(b) The director shall have the authority and responsibility for:

1. The observation of all groups of children, including:

i. Daily unannounced visits by the director, on a random daily time schedule, to each group of children; and

ii. For centers with an audio or visual monitoring system, as specified in N.J.A.C. 3A:52-5.6(c)1i, observation of such a system, on a random daily time schedule, by the director;

2. The implementation of policies and procedures for the day-to-day operation of the center, including:

i. Maintenance of staff attendance records indicating daily hours worked; and

ii. Maintenance of children's daily attendance records, including the daily time of arrival and departure; and

3. The orientation of staff members to the day-to-day operation of the center, including physical layout and daily policies and procedures.

(c) When the director is absent from the center for any length of time, he or she shall designate a responsible person to assume and carry out all responsibilities of the director, as specified in (b) above.

1. The director shall be scheduled to work at the center at least 50 percent of the center's daily operating hours.

2. The director or his or her designee(s) shall be on the premises at all times when the center is operating and the following shall apply:

i. The designee shall not have full-time classroom responsibilities during the times when the director is not present at the center.

ii. The designee shall complete staff development in understanding licensing rules as provided by the Office.

iii. The designee shall complete 20 hours of continuing staff development each year.

(d) When the director or any head teacher or required group teacher or required program supervisor is away from the center for six or more weeks, the sponsor, sponsor representative, or director shall hire or designate a staff member(s) who possesses the applicable staff qualifications for the position, as specified in N.J.A.C. 3A:52-4.6, to assume the applicable responsibilities of the position, as specified in this section.

(e) For early childhood programs, the following shall apply:

1. The head teacher(s) shall have the authority and responsibility to:

i. Ensure the development and implementation of the center's child development and activities program for children below six years of age; and

ii. Ensure the appropriateness of program activities according to both the age and developmental level of the child, as specified in N.J.A.C. 3A:52-6.1(a).

2. The head teacher shall be scheduled to:

i. Work at the center for at least 75 percent of the center's daily operating hours or at least six hours a day, whichever is less; and

ii. Plan, discuss and observe the implementation of program activities by staff members for all groups of children.

3. A head teacher who also serves as director shall be free of full-time responsibility for the direct supervision of a specific group of children.

4. The group teacher(s) shall be scheduled and have the authority and responsibility to:

i. Work at the center for at least 75 percent of the center's daily operating hours or at least six hours a day, whichever is less;

ii. Assist the head teacher in implementing the center's child development and activities program; and

iii. Assist the head teacher in ensuring that the program activities are appropriate to both the age and developmental level of the children served, as specified in N.J.A.C. 3A:52-6.1(a).

5. A group teacher who serves in lieu of a head teacher for a center having a capacity of up to 30 children, as specified in N.J.A.C. 3A:52-4.2(b)1, shall fulfill the responsibilities for head teacher, as specified in (e)1 through 3 above.

6. A group teacher who also serves as director for a center having a capacity of up to 30 children shall be free of full-time responsibility for the direct supervision of a specific group of children.

7. For centers using a consulting head teacher, the following shall apply:

i. The consulting head teacher shall make at least two on-site visits to the center per month, for a sufficient length of time to conduct staff development, observe the center's program, and ensure that the provisions specified in (e)1 above are met.

ii. The consulting head teacher shall have the authority and responsibility to observe and evaluate the group teacher, conditional head teacher, or other staff member in charge of the center's program during each on-site visit.

iii. The center shall maintain on file a written record of:

a) The date, time, purpose, and nature of each visit by the consulting head teacher; and

b) The consulting head teacher's observation of the program and evaluation of the staff member in charge of the program.

8. All staff that work with children under 2 1/2 years of age shall have training specific to this age group, which may include, but is not limited to, the New Jersey Infant/Toddler Credential administered through Professional Impact NJ, the Infant-Toddler Child Development Associate (CDA) Credential, or other trainings specifically related to the care of infants and toddlers. Each employee shall initiate this training within 90 days and complete it within one year.

(f) For school-age child care programs, the following shall apply:

1. The program supervisor shall have the authority and responsibility to:

i. Ensure the development and implementation of the center's child development and activities program for school-age children;

ii. Ensure the appropriateness of program activities according to the age and developmental level of the child, as specified in N.J.A.C. 3A:52-6.1(a); and

iii. Be scheduled to work for at least 75 percent of the school-age child care program's daily operating hours. The program supervisor shall spend time at both the before-school and after-school programs, if the center provides both programs.

§ 3A:52-4.6 Staff qualifications

(a) The center shall maintain on file a Staff Records Checklist designated by the Office of Licensing, as specified in N.J.A.C. 3A:52-4.1(b), indicating that the center has obtained documentation of the applicable staff education and experience, as specified in (b) through (d) below.

(b) The director shall meet the following qualification requirements:

1. For early childhood programs licensed to serve more than 30 children, the director shall meet the qualification requirements specified in one of the options set forth in the chart below for education and experience:

OPTIONS FOR MEETING THE DIRECTOR QUALIFICATIONS

Option	Educational Credentials	and	Experience Requirements
A	Master's Degree in any field related to children or business		(N/A)
B	Bachelor's Degree		One year of managerial or supervisory experience

2. For early childhood programs licensed to serve 30 or fewer children, the director shall meet the group teacher qualification requirements, as specified in (c)3 below.

3. For school-age child care programs, the director shall meet the program supervisor qualification requirements, as specified in (d) below.

(c) For early childhood programs, the following shall apply:

1. For all centers, the head teacher or consulting head teacher shall meet the qualification requirements specified in one of the seven options set forth in the chart below for education and experience:

OPTIONS FOR MEETING THE HEAD TEACHER QUALIFICATION

Option	Educational Credentials	and	College Credits and Experience
A	Master's Degree in Education		Six credits and one year of experience

OPTIONS FOR MEETING THE HEAD TEACHER QUALIFICATION

B	Master's Degree in any field other than Education	Nine credits and one year of experience
C	Bachelor's Degree in Education, Psychology, Health Care, Nursing, or any other field related to Child Growth and Development; or Teaching Certification from Department of Education in Elementary Education, Nursery School, Preschool through Third Grade (P-3) or Teacher of the Handicapped	Six credits and two years of experience
D	Bachelor's Degree in any field other than those listed in Option C	Nine credits and three years of experience OR Six credits and four years of experience
E	Teaching Certification from Department of Education in a field other than those listed in Option C	Nine credits and three years of experience OR Six credits and four years of experience
F	Montessori education equivalent to a Bachelor's Degree	Two years of experience
G	Head Teacher endorsement from the New Jersey Registry for Childhood Professionals, Professional Impact New Jersey	

2. The credits specified in the chart above shall be college credits in early childhood education or child development. These credits may be part of the bachelor's or master's degree or constitute additional credits beyond the degree(s).

3. The years of experience specified in the chart above shall be full-time experience in a group program for children under six years of age. This experience may include supervised practice teaching or student teaching.

4. The Office of Licensing may grant conditional approval for a head teacher who has the required educational credentials but has insufficient college credits or experience to meet all the qualifications specified in the chart in (c)1 above.

i. For conditional approval, the center shall maintain on file documentation of enrollment in courses leading to the required credits, or of employment leading to the required experience, as specified in the chart above.

ii. Conditional approval shall be valid for a maximum of two years, at which time the center shall obtain and maintain on file a transcript indicating completion of the required credits, or documentation of completion of the required experience, as applicable.

iii. When the head teacher has received conditional approval, the center shall have a consulting head teacher until the head teacher has met all applicable qualifications specified in the chart in (c)1 above.

5. For recreation-type centers sponsored by a county or municipal government recreation department, park department, or agency, the head teacher or consulting head teacher shall have:

i. One of the options specified in the chart in (c)1 above; or

a) Certification as a Recreation Administrator or a Recreation Supervisor from the New Jersey Department of Community Affairs, Board of Recreation Examiners (BRE) and two years of recreation experience; or

b) Certification as a Recreation Professional from the National Recreation and Park Association (NRPA) and two years of recreation experience.

6. The group teacher shall meet the following requirements for experience and education:

i. One year of teaching experience in a group program for children under six years of age, which may include supervised practice teaching and/or student teaching; and

ii. One of the options set forth in the chart below for educational credentials:

OPTIONS FOR MEETING THE GROUP TEACHER EDUCATIONAL QUALIFICATIONS

Option	Educational Credentials
A	Associate's Degree in Early Childhood Education or Child Development
B	Six college credits in Early Childhood Education or Child Development

	AND	
	Nine college credits in Education, Psychology, Health Care, Nursing, or any other field related to child growth or development	
C	Child Development Associate (CDA) Credential	
D	Certified Child Care Professional (CCP) Certificate	
E	Group Teacher endorsement from the New Jersey Registry for Childhood Professionals, Professional Impact New Jersey	
F	New Jersey Infant/Toddler Credential administered through Professional Impact New Jersey	

7. For recreation-type centers sponsored by a county or municipal government recreation department, park department, or agency, the group teacher may substitute:

i. One year of recreation experience for the experience specified in (c)3i above; and

ii. Certification as a Recreation Technician from the NRPA for the educational credentials specified in (c)3ii above.

8. For conditional approval, the group teacher shall meet the qualification requirements specified in one of the options set forth in the chart below. The center shall obtain and maintain on file documentation that the staff member has acquired the remaining college credits in the areas specified in Option B in (c)3ii above within the time period specified below:

OPTIONS FOR MEETING THE GROUP TEACHER CONDITIONAL APPROVAL QUALIFICATIONS

Option	College Credits Earned	Experience Completed	Remaining Credits	Time Limit to Obtain Remaining Credits
A	12 college credits in Early Childhood Education, Child Development, Education, Psychology, Health care, Nursing, or any other field related to child growth or development	One year of teaching experience in a group program for children under six years of age	3 credits	Nine months
B	Six college credits in Early Childhood Education or Child Development	Three years of teaching experience in a group program for children under six years of age	9 credits	Two Years

(d) For school-age child care programs, the following shall apply:

1. The program supervisor shall meet the qualification requirements specified in one of the applicable options set forth in the chart below for education, training, and experience, based on the center's licensed capacity:

REQUIREMENTS FOR PROGRAM SUPERVISOR QUALIFICATIONS

Requirement	Licensed Capacity	Educational Credentials	and	Training and Experience	
A	6-15	High School Diploma or General Education Development (GED) Diploma		6 hours (in child care)	2 years
B	16-30	High School Diploma or General Education Development (GED) Diploma		6 hours (in child care)	3 years
		-OR-			
		Certificate as a Recreation Technician from the National Recreation and Park Association (NRPA)		6 hours (in child care)	1 year
		-OR-			
		Child Development Associate (CDA) Certificate; Group Teacher Approval; or 15 college credits in child development, education, recreation, psychology, health care, nursing or any other field related to child growth and development		6 hours (in child care)	1 year
		15 college credits in areas not related to children		6 hours (in child care)	2 years
C	31 or more	High School Diploma or General Education Development (GED) Diploma		6 hours (in child care) AND 3 hours (in child program management)	4 years
		-OR-			
		Certificate as a Recreation Technician from the National Recreation and Park Association (NRPA)		6 hours (in child care) AND 3 hours (in child program management)	2 years
		-OR-			
		Child Development Associate (CDA) Certificate; Group Teacher Approval; or 15 college credits in child development, education, recreation, psychology, health care, nursing, or any other field related to child growth and development		6 hours (in child care) AND 3 hours (in child program management)	2 years
		-OR-			
		15 college credits in areas not related to children		6 hours (in child care) AND 3 hours (in child program management)	3 years
		-OR-			
		Associate's Degree in any field		6 hours (in child care) AND 3 hours (in child program management)	2 years
		-OR-			
		Bachelor's Degree in a child related field; or Office of Licensing Head Teacher Approval		3 hours (in child program management)	1 year
		-OR-			
		Certificate as a Recreation Administrator, Recreation Supervisor or Recreation Professional		3 hours (in child program management)	1 year
		-OR-			
		Bachelor's Degree in an unrelated field		6 hours (in child care) AND 3 hours (in child program management)	1 year
D		School Age Program Supervisor endorsement from the New Jersey Registry for Childhood Professionals, Professional Impact New Jersey			

2. The training specified in the chart above shall:

i. Be clock hours of training;

ii. Be completed within the nine months following Office of Licensing approval as program supervisor;

iii. Be in areas related to the ages of the children in care; and

iv. Meet the requirements specified in (d)3 and 4 below.

3. Child care training shall include all of the following:

i. Child growth and development;

ii. Positive guidance and discipline;

iii. Nutrition and good eating habits;

iv. Family involvement and communication with families;

v. Program planning and development;

vi. Creating a classroom environment;

vii. Health and safety procedures, including recognition of illness and disease and training in basic infection control techniques;

viii. Physical education or recreational activities for children; and

ix. Understanding New Jersey's child care licensing regulations.

4. Program management training shall include all of the following:

i. Program activity planning and development;

ii. Family involvement and communication with families;

iii. Availability of community services;

iv. Personnel responsibilities and procedures; and

v. Understanding New Jersey's child care licensing regulations.

5. The experience specified in the chart above shall be obtained in a group program for school-age children.

§ 3A:52-4.7 Staff orientation and development

(a) The center shall meet the following requirements for orientation training:

1. The center shall ensure that all newly-hired staff receive orientation training within two weeks of hire and that no individual is left alone to supervise a child or group of children until orientation training is completed.

2. The center shall ensure that all current staff members are retrained in the training topics listed in N.J.A.C. 3A:52-4.8(a) each year.

3. The center shall secure and maintain on file each staff member's signature attesting to the review of the orientation training upon hire and annually.

§ 3A:52-4.8 Orientation training

(a) Topics of orientation training shall include all of the following:

1. Supervising and tracking all children, as specified in N.J.A.C. 3A:52-4.3(a);

2. Understanding center operations, policies and procedures, as specified in N.J.A.C. 3A:52-4.5(b)3;

3. Implementing group size limits and primary caregiver responsibilities, as applicable, as specified in N.J.A.C. 3A:52-4.4;

4. Recognizing and reporting child abuse or neglect, as specified in N.J.A.C. 3A:52-4.9;

5. Evacuating the center and using the fire alarms, as specified in N.J.A.C. 3A:52-5.3(l);

6. Implementing the center's release policy, as specified in N.J.A.C. 3A:52-6.5;

7. Implementing the center's statement of policy on the disciplining of children, as specified in N.J.A.C. 3A:52-6.6;

8. Implementing health practices, including medication administration and responding to symptoms of illness, as specified in N.J.A.C. 3A:52-7.1 through 7.11;

9. Implementing safe sleep practices to prevent Sudden Infant Death Syndrome;

10. Preventing Shaken Baby Syndrome and Abusive Head Trauma;

11. Recognizing and responding to injuries and emergencies, including the prevention of and response to emergencies due to food-related allergies and other allergic reactions; and

12. Including children with special needs in the center's program.

(b) Orientation training as specified in (a) above may be included for six of the required hours of staff development specified in (c) and (d) below.

(c) The center shall ensure that all staff members who work at the center complete 12 hours of continuing staff development each year.

(d) In lieu of the child care staff development specified in (b) above, the director, head teacher(s), group teacher(s), and program supervisor(s) shall each complete 20 hours of staff development each year. Recommended topics of training for these staff include:

1. Educational and physical activity;

2. Special needs programming and program development;

3. Social-emotional and behavioral development for young children;

4. Legal issues, including ADA guidelines; and

5. Leadership and advocacy.

(e) Directors shall complete staff development in understanding licensing regulations as provided by the Office of Licensing within 90 days of hire. Such staff development may be included in the required 20 hours of staff development specified in (d) above.

(f) The staff development specified in (a) through (d) above shall:

1. Be clock hours of staff development;

2. Be related to the ages of the children served by each staff member;

3. Be provided either by the center or by another source such as a college or university, community or professional organization, professional consultant, State agency, or an instructor approved by the Instructor Approval System of Professional Impact of New Jersey; and

4. Be presented by persons with relevant expertise. The staff development may include materials approved by the center, such as printed materials, television broadcasts, audio-visual materials, or websites.

(g) The center shall maintain on file documentation of the date, time, topic, presenter and attendance for all staff development and orientation completed by center staff members.

1. For staff development provided by the center, the center shall maintain on file documentation or a copy of all staff development materials used.

2. For staff development provided by another source, the center shall maintain on file documentation of the name of the person or organization that provided the staff development.

3. The center shall record each staff member's completion of staff development and orientation on the Staff Records Checklist, as specified in N.J.A.C. 3A:52-4.1(b).

§ 3A:52-4.9 Special requirements to prevent child abuse and neglect

(a) The sponsor, sponsor representative, director, or any staff member shall verbally notify the State Central Registry Hotline (1-877 NJ ABUSE/1-877-652-2873) immediately whenever there is reasonable cause to believe that a child has been subjected to abuse or neglect by a staff member, or any other adult, pursuant to N.J.S.A. 9:6-8.9, 8.10, 8.13, and 8.14.

(b) In addition to the reporting requirements specified in (a) above, the sponsor, sponsor representative, director, or any staff member shall advise the parent(s) of the occurrence of any unusual incident(s) that occurred at the center and that might indicate possible abuse or neglect involving the child. Such notification shall be made on the same day on which the incident occurred. Such incidents may include, but are not limited to, unusual sexual activity; violent or destructive behavior; withdrawal or passivity; or significant change(s) in the child's personality, behavior or habits. The center shall maintain on file a record of such incidents and documentation that parents have been informed of them.

(c) The Department, during the course of investigating an allegation of child abuse or neglect, may determine that corrective action is necessary to protect the children whenever:

1. The sponsor, sponsor representative, director, or staff member has been found by the Department's Institutional Abuse Investigation Unit (IAIU) to pose a risk of harm to children;

2. The sponsor, sponsor representative, director, or staff member has committed an act of child abuse or neglect, as substantiated by the IAIU; or

3. The sponsor, sponsor representative, director, or staff member has been convicted of such acts.

(d) Whenever the Department makes a determination that corrective action is necessary to protect the children, the sponsor or sponsor representative shall carry out the Department's recommendation for corrective action. Such corrective action may include, but not be limited to:

1. Removal or suspension of the affected sponsor, sponsor representative, director, or staff member(s) from the center or reassignment to other duties that do not involve contact with the children; or

2. When the sponsor, sponsor representative, director, or staff member resides at the facility where the center is located, removal of the affected employee from the premises for a period of time extending from one hour prior to the arrival of the children until one hour after the children have left.

(e) Such suspension, removal, or reassignment, as specified in (d)1 and 2 above, shall remain in effect until the results of the Department's investigation have been determined and a final decision in the matter has been rendered by the Office of Licensing.

(f) If an allegation of child abuse or neglect is substantiated against a staff member, the sponsor or sponsor representative shall immediately terminate the staff member's employment at the center. If an allegation of child abuse or neglect is substantiated against the sponsor or sponsor representative, the Department shall revoke or refuse to renew the license or Certificate of Life/Safety Approval, as applicable.

§ 3A:52-4.10 Child Abuse Record Information background check procedures

(a) As a condition of securing a new or renewal license or Certificate of Life/Safety Approval, the sponsor or sponsor representative shall provide for himself or herself, and shall obtain from all staff members who are or will be working at the center on a regularly scheduled basis, written consent for the Department to conduct a Child Abuse Record Information (CARI) background check to determine whether an incident of child abuse or neglect has been substantiated against any such person.

1. The sponsor, sponsor representative, and each staff member shall complete a signed consent form provided by the Department that indicates the identifying information necessary to conduct a CARI background check, including the person's name, address, date of birth, sex, race, and Social Security number. Pursuant to the Federal Privacy Act of 1974 (P.L. 93-579), the Department shall advise each such person that the disclosure of his or her Social Security number is voluntary, and that the Social Security number will only be used for the purpose of conducting a CARI background check.

2. If a staff member refuses to consent to a CARI background check, the sponsor or sponsor representative shall immediately terminate the staff member's employment at the center.

3. If the sponsor or sponsor representative refuses to consent to a CARI background check, the Department shall deny the application or suspend, revoke, or refuse to renew the license or Certificate of Life/Safety Approval, as applicable. The sponsor or sponsor representative may appeal the denial, suspension, revocation, or refusal to renew to the Department, as specified in N.J.A.C. 3A:52-2.5.

4. When a person who is not required to complete a CARI background check is working with children at the center, the center shall ensure oversight of that person by another staff member and ensure that person is not left alone to supervise a child or group of children.

(b) When the center applies for a new or renewal license or Certificate of Life/Safety Approval, the sponsor or sponsor representative shall submit to the Department the completed CARI consent forms for all staff members who are or will be working at the center on a regularly scheduled basis.

1. Within two weeks after a new staff member begins working at the center, the sponsor or sponsor representative shall submit to the Department a completed CARI consent form for the new staff member.

2. Until the results of the CARI background check for a new staff member have been received from the Department, the center shall ensure oversight of the new staff member by another staff member, and ensure that person is not left alone to supervise a child or group of children.

(c) When the sponsor or sponsor representative submits the CARI consent forms to the Department, the sponsor or sponsor representative shall enclose payment of $ 10.00 for each CARI background check, in the form of a check or money order from the center made payable to "Treasurer, State of New Jersey." The center may use its own discretion in offering to pay or reimburse the staff member for the cost of the CARI background check.

(d) Upon receipt of the completed CARI consent forms and payment from the center, the Department shall conduct a search of its records for substantiated incidents of child abuse or neglect. The Department

will consider incidents of child abuse or neglect that were substantiated on or after June 29, 1995, to ensure that the perpetrator has had an opportunity to appeal a substantiated finding of child abuse or neglect; except that the Department may consider substantiated incidents prior to that date if the Department, in its judgment, determines that the perpetrator poses a risk of harm to children in a child care center.

(e) Within 45 working days of receipt of the completed CARI consent forms and payment from the center, the Department shall inform the sponsor or sponsor representative in writing as to whether a substantiated incident of child abuse or neglect by the sponsor, sponsor representative, or a staff member has been found. If such an incident has been found, the Department shall inform the sponsor or sponsor representative in writing of the name of the perpetrator.

(f) If the CARI background check does not reveal any substantiated incident of child abuse or neglect by the sponsor, sponsor representative, or a staff member, the Department may issue or renew the regular license or Certificate of Life/Safety Approval, provided that all other applicable requirements of this chapter have been met.

(g) If the CARI background check reveals that an incident of child abuse or neglect has been substantiated against a staff member, the sponsor or sponsor representative shall immediately terminate the staff member's employment at the center.

1. The sponsor or sponsor representative shall notify the staff member in writing that the termination of employment is based on a substantiated incident of child abuse or neglect.

2. If the incident was substantiated prior to June 29, 1995, the sponsor or sponsor representative shall notify the staff member in writing that the staff member may appeal the termination of employment to the Department.

(h) In keeping with the confidentiality provisions of N.J.S.A. 9:6-8.10a, the sponsor, sponsor representative, and all staff members shall keep all completed CARI consent forms and related correspondence confidential.

1. The center shall maintain the results of the CARI background checks and related correspondence on file in a confidential manner.

2. When a substantiated incident of child abuse or neglect by the sponsor, sponsor representative, or a staff member has been found by the Department, the sponsor, sponsor representative, and the staff member shall not disclose to any other person the identity of the perpetrator or any other information concerning the incident.

§ 3A:52-4.11 Criminal History Record Information background check procedures

(a) As a condition of securing a license or Certificate of Life/Safety Approval, the sponsor or sponsor representative shall ensure that a Criminal History Record Information (CHRI) fingerprint background check is completed for himself or herself, and for all staff members at least 18 years of age who are or will be working at the center on a regularly-scheduled basis, to determine whether any such person has been convicted of a crime, as specified in P.L. 2000, c. 77 (N.J.S.A. 30:5B-6.10 to 6.17).

1. The sponsor or sponsor representative and each staff member shall complete the electronic fingerprinting process through the vendor authorized by the State to conduct CHRI background checks through the Division of State Police in the Department of Law and Public Safety and the Federal Bureau of Investigation.

2. The sponsor or sponsor representative and each staff member shall provide the identifying information and documentation to the State-authorized vendor as necessary to conduct a CHRI background check, including the individual's name, address, date of birth, place of birth, citizenship, sex, race, height, weight, hair color, eye color, Social Security number, and the center's license number.

3. If a staff member refuses to consent to a CHRI background check, the sponsor or sponsor representative shall immediately terminate the staff member's employment at the center.

4. If the sponsor or sponsor representative refuses to consent to a CHRI background check, the Department shall deny the application or suspend, revoke, or refuse to renew the license or Certificate of Life/Safety Approval, as applicable. The sponsor or sponsor representative may appeal the denial, suspension, revocation, or refusal to renew to the Department, as specified in N.J.A.C. 3A:52-2.5.

5. When a person who is not required to complete a CHRI background check is working with children at the center, the center shall ensure oversight of that person by another staff member and ensure that the person is not left alone to supervise a child or group of children.

(b) When the center applies for a new license or Certificate of Life/Safety Approval, the sponsor or sponsor representative shall ensure that each staff member at least 18 years of age who is or will be working at the center on a regularly scheduled basis completes the CHRI fingerprinting process specified in (a) above.

1. Within two weeks after a new staff member begins working at the center, the sponsor or sponsor representative shall ensure that the new staff member completes the CHRI fingerprinting process specified in (a) above.

2. Until the center receives the results of the CHRI background check for a new staff member from the Department of Human Services, the center shall ensure oversight of that person by another staff member and ensure that the person is not alone to supervise a child or group of children.

(c) An individual shall be permanently disqualified from employment at, or ownership or sponsorship of, a child care center if the CHRI background check for the individual reveals a record of conviction for any of the following crimes and offenses:

1. In New Jersey, any crime or disorderly persons offense as follows:

i. A crime against a child, including endangering the welfare of a child and child pornography, pursuant to N.J.S.A. 2C:24-4, and child molestation, as set forth in N.J.S.A. 2C:14-1 et seq.;

ii. Abuse, abandonment or neglect of a child, pursuant to N.J.S.A. 9:63;

iii. Endangering the welfare of an incompetent person, pursuant to N.J.S.A. 2C:24-7;

iv. Sexual assault, criminal sexual contact or lewdness, pursuant to N.J.S.A. 2C:14-2 through 14-4;

v. Murder, pursuant to N.J.S.A. 2C:11-3, or manslaughter, pursuant to N.J.S.A. 2C:11-4;

vi. Stalking, pursuant to P.L. 1992, c.209 (N.J.S.A. 2C:12-10);

vii. Kidnapping and related offenses including criminal restraint, false imprisonment, interference with custody, criminal coercion, or enticing a child into a motor vehicle, structure or isolated area, pursuant to N.J.S.A. 2C:13-1 through 13-6;

viii. Arson, pursuant to N.J.S.A. 2C:17-1, or causing or risking widespread injury or damage which would constitute a crime of the second degree, pursuant to N.J.S.A. 2C:17-2;

ix. Terroristic threats, pursuant to N.J.S.A. 2C:12-3; or

x. An attempt or conspiracy to commit any of the crimes or offenses listed in (c)1i through ix above; or

xi. In any other state or jurisdiction, any conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in (c)1 above.

2. Upon receipt of the results of the CHRI background check from the Division of State Police and the Federal Bureau of Investigation, the Department shall inform the sponsor or sponsor representative and the staff member in writing as to whether any record of conviction by the sponsor, sponsor representative, or staff member has been found.

(d) If the CHRI background check does not reveal any record of conviction by the sponsor, sponsor representative, or a staff member, the Department may issue or renew the regular license or Certificate of Life/Safety Approval, provided that all other applicable requirements of this chapter have been met.

(e) If the CHRI background check reveals a record of conviction by the sponsor, sponsor representative, or a staff member, the Department shall inform the convicted individual of the opportunity to challenge the accuracy of the CHRI.

(f) If the CHRI background check reveals a record of conviction by a staff member for a crime or offense specified in (c) above, the sponsor or sponsor representative shall immediately terminate the staff member's employment at the center.

(g) If the CHRI background check reveals a record of conviction by the sponsor or sponsor representative for a crime or offense specified in (c) above, the Department shall deny the application or revoke or refuse to renew the license or Certificate of Life/Safety Approval, as applicable.

(h) If the CHRI background check reveals a record of conviction by the sponsor, sponsor representative, or a staff member for a crime or offense other than those specified in (c) above, the sponsor, sponsor representative, or staff member may be eligible for employment at, or ownership, or sponsorship of, a child care center if the Department determines that the person has affirmatively demonstrated to the Department clear and convincing evidence of rehabilitation.

1. In determining whether a person has affirmatively demonstrated rehabilitation, the Department shall consider the following factors:

i. The nature and responsibility of the position at the child care center which the convicted person would hold, has held or currently holds, as the case may be;

ii. The nature and seriousness of the offense;

iii. The circumstances under which the offense occurred;

iv. The date of the offense;

v. The age of the person when the offense was committed;

vi. Whether the offense was an isolated or repeated incident;

vii. Any social conditions that may have contributed to the offense; and

viii. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those individuals who have had the person under their supervision.

2. The Department shall make the final determination regarding the employment of a sponsor, sponsor representative, or staff member with a criminal conviction.

(i) If the sponsor or sponsor representative has knowledge that criminal charges are pending against a staff member, the sponsor or sponsor representative shall promptly notify the Office of Licensing to determine whether any action concerning the staff member is necessary in order to ensure the safety of the children who attend the center.

(j) A center that has received an employment application from an individual or currently employs a staff member shall be immune from liability for acting upon or disclosing information about the staff member's disqualification or termination to another center seeking to employ that person, if the center has:

1. Received notice from the Department that the applicant or staff member, as applicable, has been determined by the Department to be disqualified from employment in a child care center pursuant to section 5 or 6 of P.L. 2000, c. 77 (N.J.S.A. 30:5B-6.14 or 6.15); or

2. Terminated the employment of a staff member because the person was disqualified from employment at the center on the basis of a conviction for a crime or offense pursuant to section 5 or 6 of P.L. 2000, c.77 (N.J.S.A. 30:5B-6.14 or 6.15) after commencing employment at the center.

(k) A center which acts upon or discloses information pursuant to (k) above shall be presumed to be acting in good faith unless it is shown by clear and convincing evidence that the center acted with actual malice toward the person who is the subject of the information.

§ 3A:52-5.1 Applicability of requirements to programs operating in public school buildings

A child care center operating in a public school building concurrently used as a public school shall not be required to meet the requirements of this subchapter, other than N.J.A.C. 3A:52-5.3(i)5, unless otherwise required by law.

§ 3A:52-5.2 State, county, and municipal government physical facility requirements

(a) A person seeking a license or a Certificate of Life/Safety Approval to operate a center shall comply with all applicable provisions of the New Jersey Uniform Construction Code, as specified in N.J.A.C. 5:23 (hereinafter referred to as the "NJUCC").

1. For newly constructed buildings, for existing buildings whose construction code group classification would change from that which it had been, or for existing buildings that require major alteration or renovation, the center shall obtain a Certificate of Occupancy (CO) issued by the municipality in which it is located, reflecting the center's compliance with the provisions of the NJUCC, and submit a copy of the CO to the Office of Licensing, for one of the following group classifications:

i. E (Educational) for buildings accommodating children 2 1/2 years of age and older and having a total occupancy of six or more children;

ii. I-4 (Institutional) for buildings accommodating one or more children less than 2 1/2 years of age; or

iii. A-3 (Assembly) or one of the use group classifications specified in (a)1i or ii above for buildings accommodating school-age child care programs only.

2. Plan reviews for centers to be located in newly-constructed buildings shall be submitted as follows:

i. In addition to submitting preliminary and final architectural drawings to the local construction official, a sponsor or sponsor representative that plans to construct a new or renovate an existing building for use as a center shall submit preliminary or final architectural drawings to the Office of Licensing for review and approval prior to beginning construction.

ii. The sponsor or sponsor representative shall submit to the Office of Licensing revised final architectural drawings containing all Office of Licensing-required items listed in the plan review, if any, and secure final approval from the Office of Licensing prior to beginning construction.

3. For buildings constructed after the adoption of the NJUCC (1977), whose construction code group classification is already E, I-2, I-4, A-3, or A-4, and that have not had major alterations or renovations since receipt of the CO, the center shall obtain the CO issued by the municipality in which it is located at the time the building was originally constructed or approved for use in the NJUCC's E, I-2, I-4, A-3, or A-4 group classification. The center shall submit a copy of the building's CO to the Office of Licensing.

4. For existing buildings whose use prior to the adoption of the NJUCC (before 1977) was and continues to be for a center and that have not had major alterations or renovations, the center shall obtain a Certificate of Continued Occupancy (CCO) issued by the municipality in which it is located, reflecting the building's compliance with provisions of the municipality's construction code requirements that were in effect at the time it was originally constructed or converted for use

as a center. The center shall submit a copy of the building's CCO and the center's current fire safety inspection certificate to the Office of Licensing.

5. The center shall be permitted to obtain a valid fire safety inspection certificate issued by the municipality in which it is located, based on a fire inspection conducted within the preceding 12 months, and submit a copy of the certificate to the Office of Licensing in lieu of a CO or CCO, if the center serves only children 2 1/2 years of age or older and is located in a public school building that is used as a public school.

6. The center shall obtain a new CO issued by the local municipality in which the center is located, and submit a copy to the Office of Licensing, reflecting the building's compliance with provisions of the applicable NJUCC group classification, whenever the center:

i. Changes the building's use group classification to one other than the one prescribed on its original CO;

ii. Makes a major alteration or renovation, as defined by the NJUCC, of the building or premises in which the center is located;

iii. Increases the floor area or the number of stories to the building or premises in which the center is located; or

iv. Relocates to another site.

7. Whenever a municipality grants to a center a written variation(s) from any of the requirements of the NJUCC, the Office of Licensing may accept such variation(s) as meeting the applicable requirement(s) of this chapter.

i. If the Office of Licensing does not accept the variation, the non-acceptance shall be based on the best interests of the children in the center, and shall include consideration for their health and safety. The non-acceptance shall be based on the requirements of this chapter only, and shall not preclude the municipality from continuing to grant the variation.

ii. If the center disagrees with the Office of Licensing, the center may seek a hearing in accordance with N.J.A.C. 3A:52-2.5(a) and the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1, as implemented by the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

8. The center shall obtain a Life Hazard Use Registration certificate applicable to the center's licensed capacity and ages served pursuant to the Uniform Fire Safety Act, N.J.S.A. 52:27D-192 et seq. The center shall post this document in a prominent location within the center.

(b) An applicant seeking a license or a Certificate of Life/Safety Approval to operate a center shall comply with all applicable provisions of the New Jersey Uniform Fire Code, as specified in N.J.A.C. 5:70 and hereinafter referred to as the NJUFC. The center shall obtain the building's fire safety inspection certificate issued by the municipality in which it is located, based on a fire inspection conducted within the preceding 12 months, reflecting the center's compliance with all applicable provisions of the NJUFC. The center shall maintain on file the building's fire safety inspection certificate.

(c) If the center prepares meals, the center shall obtain a satisfactory Sanitary Inspection Certificate, as specified in N.J.A.C. 8:24, indicating that the kitchen is in compliance with the applicable requirements of the State Sanitary Code. The center shall maintain on file the Sanitary Inspection Certificate.

(d) An applicant seeking the renewal of a license or of a Certificate of Life/Safety Approval to continue operating a center shall obtain and maintain on file a fire safety inspection certificate for the building based on a fire inspection conducted within the preceding 12 months. If the center prepares meals, the applicant seeking renewal shall obtain and maintain on file a satisfactory Sanitary Inspection Certificate, as specified in N.J.A.C. 8:24, indicating that the kitchen is in compliance with the applicable requirements of the State Sanitary Code, based on a sanitary inspection conducted within the preceding 12 months.

(e) A center that plans to locate or is already located in a hospital or other health care facility, as defined in the Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., shall obtain a letter from the Department of Health indicating that Department's approval. The center shall submit a copy of the approval letter to the Office of Licensing.

§ 3A:52-5.3 Physical plant requirements for all centers

(a) Indoor maintenance and sanitation requirements are as follows:

1. The center shall be free of moisture resulting from water leaks or seepage.

2. Floors, carpeting, walls, window coverings, ceilings, and other surfaces shall be kept clean and in good repair.

3. Stairways shall be free of tripping hazards, such as toys, boxes, loose steps, uneven treads, torn carpeting, raised strips, or uneven risers.

4. Carpeting shall be securely fastened to the floor.

5. Garbage receptacles shall be:

i. Made of durable, leak-proof and nonabsorbent materials;

ii. Covered in a secure manner;

iii. Emptied to the outdoor garbage receptacle when filled; and

iv. Maintained in a sanitary manner.

6. Food waste receptacles shall be lined and maintained in clean and sanitary condition.

7. The center shall be free of rodent or insect infestation and shall take immediate action to remove any infestation that may occur. The center shall maintain on file a record documenting the use of extermination services.

8. Pesticides for indoor and outdoor use shall be used in accordance with the manufacturer's directions and in keeping with the applicable provisions specified in N.J.A.C. 7:30-10, Pesticide Control Code.

i. No pesticides shall be applied in or around a child care center during operating hours.

ii. Before applying pesticides, all toys and non-permanent play equipment shall be removed from outdoor and indoor play areas.

9. Toilets, wash basins, kitchen sinks, and other plumbing shall be maintained in good operating and sanitary condition.

10. All corrosive agents, insecticides, bleaches, detergents, polishes, any products under pressure in an aerosol spray can, and any toxic substance shall be stored in a locked cabinet or in an enclosure located in an area not accessible to the children.

11. All windows and other glass surfaces that are not made of safety glass and that are located within 36 inches above the floor shall have protective guards.

i. Install window guards, with approval of the local fire official, or provide an alternative method to ensure that children cannot fall out of windows.

ii. The center shall ensure that window blind cords and other cords and ropes that present risk of harm are inaccessible to children.

12. All balconies, rooftops, verandas, and all floor levels used by children that are above the first floor and subject the children to an open drop or atrium shall be protected by barriers consisting of safety glass, Plexiglas, or any other materials approved by the Office of Licensing. Such barriers shall extend at least five feet above the floor level.

13. Ventilation outlets shall be clean and free from obstructions, and filters shall be replaced when saturated.

14. Walls shall be painted or otherwise covered whenever there is evidence of:

i. Excessive peeling or chipped paint; or

ii. Heavily soiled conditions.

15. All televisions and computers shall be secured on a stable surface and shelving shall be secured and not be overloaded.

16. Ensure that microwave ovens, toaster ovens, and other portable devices used to heat or prepare food are out of children's reach, secured on a stable surface, and not in use when children are in the area in order to ensure the safety of children.

17. The center shall test for the presence of radon gas in each classroom on the lowest floor level used by children at least once every five years and shall post the test results in a prominent location in all buildings at the center, as specified in N.J.S.A. 30:5B-5.2.

18. The center shall comply with the provisions specified in P.L. 1999, c. 362 (N.J.S.A. 30:5B-5.5) requiring reports of drinking water tests to be posted in all buildings at the center when received from a water supply company or prepared by the center, for private wells and other non-public water sources.

19. The center shall ensure all guardrails accessible to children are no more than four inches apart or are otherwise protected to prevent head entrapment.

(b) Outdoor maintenance and sanitation requirements are as follows:

1. The building, land, walkways, and outdoor play area shall be free from hazards to the health, safety or well-being of the children.

2. The outdoor play area shall be graded or provided with drains to dispose of surface water.

3. The building structure shall be maintained to prevent:

i. Water from entering;

ii. Excessive drafts or heat loss; and

iii. Infestation from rodents and insects.

4. The railings of balconies, landings, porches, or steps shall be maintained in safe condition.

5. Garbage receptacles shall be:

i. Made of durable, leakproof and nonabsorbent materials;

ii. Covered in a secure manner and located in an outdoor area; and

iii. Maintained in a sanitary manner.

6. Centers that provide outdoor space shall maintain all fencing in proper condition.

7. The center shall comply with the Playground Safety Subcode of the New Jersey Uniform Construction Code, as specified in N.J.A.C. 5:23-11.

i. Centers that take children to a community playground shall ensure that the playground surfacing and all other elements comply with the Playground Safety Subcode before being used by the children.

(c) Lighting requirements are as follows:

1. All fluorescent tubes and incandescent light bulbs shall have protective covers or shields.

2. During program activities, at least 20 foot-candles of natural or artificial light shall be provided in all rooms used by the children. This illumination shall be measured three feet above the floor at the farthest point from the light source.

3. Parking areas, pedestrian walkways, or other exterior portions of the premises subject to use by center occupants at night shall be illuminated to provide safe entrance to and egress from the center.

(d) Heating requirements are as follows:

1. A minimum temperature of 68 degrees Fahrenheit shall be maintained in all areas used by the children including, but not limited to, classrooms and bathrooms.

2. Steam and hot water pipes and radiators shall be protected by screens, guards, insulation, or any other suitable, non-combustible protective device.

3. The center shall not use portable liquid fuel-burning or wood-burning heating appliances or electric space heaters.

(e) All fans that are accessible to the children shall have a grille, screen, mesh, or other protective covering.

(f) Toilet facility requirements are as follows:

1. A supply of soap, toilet paper, and individual hand towels or disposable paper towels shall be provided.

2. Mirrors, dispensers, and other equipment shall be fastened securely.

3. Platforms shall be available as appropriate for use by the children when adult size toilets, sinks, or urinals are used by the children.

(g) A center utilizing a kitchen facility or food preparation area shall ensure that the cooking equipment and kitchen facility are kept in clean and sanitary condition and are operated in compliance with applicable provisions of the State Sanitary Code, as specified in N.J.A.C. 8:24.

(h) Lead paint precautions are as follows:

1. The center shall be free from lead paint hazards.

2. The center shall comply with the lead paint inspection requirements specified in (h)3 below, unless the center:

i. Is located in a building constructed after 1978; or

ii. Submits documentation to the Office of Licensing of a previous lead paint inspection conducted by a Lead Inspector/Risk Assessor, who is certified and employed as specified in (h)3 below, indicating the center is free of lead-based paint hazards; or

iii. Submits documentation to the Office of Licensing and the local department of health of:

a) A lead paint inspection and risk assessment conducted by a Lead Inspector/Risk Assessor, who is certified and employed as specified in (h)3 below, within the previous 12 months indicating the presence of lead; and

b) A lead paint risk management plan currently in progress at the center.

3. The center shall ensure that a lead paint inspection of all painted surfaces of the center is conducted by a Lead Inspector/Risk Assessor, who is certified by the New Jersey Department of Community Affairs (DCA) and employed by either a public health agency or a lead evaluation contractor certified by DCA, as specified in N.J.A.C. 5:17.

i. If the lead paint inspection indicates the center is free of lead-based paint hazards, the center shall submit documentation of the inspection results to the Office of Licensing and the local department of health.

ii. If the lead paint inspection indicates the presence of lead, the center shall ensure that a lead paint risk assessment of the center is conducted by a Lead Inspector/Risk Assessor, who is certified and employed as specified in (h)3 above.

iii. The center shall submit documentation of the risk assessment results to the Office of Licensing and the local department of health.

iv. If a lead paint risk assessment indicates the presence of a lead hazard, the center shall:

a) Ensure that all lead hazards are abated pursuant to N.J.A.C. 5:17 and 5:23 by a Lead Abatement Contractor who is certified and employed as specified in (h)3 above;

b) Submit to the Office of Licensing and the local department of health a certificate of lead abatement issued by the local construction official, or other documentation as appropriate, reflecting that appropriate remedial action to abate the lead hazard has been completed; and

c) Inform the parents of all enrolled children that a lead paint hazard has been found at the center and will be or has been abated, as applicable.

4. If any area of the center is renovated or damaged after a lead paint risk assessment has been conducted, the center shall:

i. Ensure that an additional risk assessment is conducted by a Lead Inspector/Risk Assessor who is certified and employed as specified in (h)3 above; and

ii. Submit the results of the additional risk assessment to the Office of Licensing and the local department of health.

5. The center shall follow the recommendations of the local department of health for enclosure, removal or other appropriate action to abate lead hazards, and shall permit the local department of health to conduct follow-up inspections to ensure compliance with State statutes governing lead paint hazards.

6. If a previous lead paint inspection indicates the presence of lead, or a lead paint risk management plan is in progress at the center, the center shall:

i. Ensure that a lead paint risk assessment is conducted by a Lead Inspector/Risk Assessor who is certified and employed as specified in (h)3 above, upon renewal of the center's license; and

ii. Submit the results of the risk assessment to the Office of Licensing and the local department of health.

(i) Environmental condition precautions are as follows:

1. At the time of the initial application, any renewal application, relocation of an existing licensed center and, in the discretion of the Office of Licensing, any other time, the applicant or facility operator shall submit a written certification to the Office of Licensing indicating whether the building has ever housed a use that was classified under the Uniform Construction Code, N.J.A.C. 5:23, as any of the following:

i. Group F - factory/industrial;

ii. Group H - high hazard;

iii. Group S - storage;

iv. Group B - dry cleaners or nail salons;

v. Group M - gas stations; or

vi. Group A - funeral home.

2. For those buildings that predate the Uniform Construction Code, the facility operator shall at minimum, conduct a Preliminary Assessment in accordance with the Department of Environmental Protection's Technical Requirements for Site Remediation (N.J.A.C. 7:26E) to determine whether the building ever housed a use that would have been classified as any of those uses had the Uniform Construction Code been in effect.

3. In the event that the building housed a use that was or would have been classified as any of those uses listed in (i)1 above, the facility operator shall certify in writing to the Office of Licensing that:

i. The site of the center complies with the Madden legislation (P.L. 2007 c. 1), the Site Remediation Reform Act (N.J.S.A. 58:10C-1 et seq.), the Technical Requirements for Site Remediation (N.J.A.C. 7:26E), and the Department of Environmental Protection's Guidance Document for Environmental Guidance for All Child Care Facilities and

Education Institutions, incorporated by reference, as amended and supplemented, which can be found at http://nj.gov/dep/srp/guidance;

ii. The facility operator has contacted the Department of Environmental Protection (DEP) to determine what further steps, if any, are necessary to address the risks posed by the prior historical use, and the facility operator has complied with all recommended corrective actions;

iii. He or she has conducted an Indoor Environmental Health Assessment (IEHA) that has been performed by a Licensed Indoor Environmental Consultant in accordance with the Department of Health rules (N.J.A.C. 8:50); and

iv. He or she has submitted the IEHA to the Department of Health for review and evaluation of the indoor environmental conditions in the building where the center is located.

4. Paragraphs (i)1 through 3 above shall not apply to any centers covered by N.J.A.C. 3A:52-2.3(e).

5. At the time of the initial application, any renewal application, relocation of an existing licensed center and, in the discretion of the Office of Licensing, any other time, the applicant or facility operator shall certify in writing that the center provides a potable water supply provided by a public community water system.

i. If the facility is supplied by a public community water system, the applicant or facility operator shall provide documentation of water testing conducted by a laboratory certified by the Department of Environmental Protection for water testing for lead and copper from all faucets and other sources used for drinking water or food preparation and at least 50 percent of all indoor water faucets utilized by the center.

ii. If the results reveal elevated levels of lead or copper as defined by the New Jersey Department of Environmental Protection, Bureau of Safe Drinking Water, which pose risk of harm to children, the center shall:

a) Immediately discontinue use of all drinking water sources in the building;

b) Provide bottled water for drinking;

c) Provide bottled water for food preparation with approval from the local health official; and

d) Notify parents of the children in attendance at the center.

iii. If the facility or site is not provided a potable water supply by a public community water system, the applicant shall provide potable water sampling results demonstrating compliance with maximum contaminant levels for all contaminants required to be tested pursuant to N.J.A.C. 7:10-5 for public non-transient, non-community (NTNC) water systems, including radiological contaminants, regardless of whether they meet the definition of NTNC systems as defined at N.J.A.C. 7:10-1.3. This sampling shall have been conducted within three years of the date of application submission, except nitrates and coliform, for which the sampling shall have been conducted within 90 days of submitting the application.

6. At the time of the initial application, any renewal application, relocation of an existing licensed center and, in the discretion of the Office of Licensing, any other time, the applicant or facility operator shall certify in writing that the center complies with all existing Department of Children and Families regulatory requirements for child care centers with respect to radon, asbestos, and lead listed in (a)19 and (h) above and (j) below.

7. At the time of the initial application, any renewal application, relocation of an existing licensed center and, in the discretion of the Office of Licensing, any other time, the facility operator shall submit to the Office of Licensing a No Further Action letter, Child Care Facility Approval letter, Response Action Outcome letter, or other approval, which indicates that no further remediation is needed for the site from the Department of Environmental Protection, which indicates that no further remediation is needed for the site on which the center is located.

8. At the time of the initial application, any renewal application, relocation of an existing licensed center, and, as determined by the Office of Licensing, on a case-by-case basis, the facility operator shall submit to the Office of Licensing a Safe Building Interior Certification or other approval issued by the Department of Health that indicates that no further remediation is needed for the interior of the building in which the center is located.

9. The Office of Licensing shall not issue licenses or renewals to child care centers that are co-located in a building or other structure that contains a dry cleaner or nail salon unless the applicant obtains indoor air sampling that demonstrates that there is no impact to the child care center.

(j) Asbestos precautions are as follows:

1. The building shall comply with the applicable provisions of the Asbestos Hazard Abatement Subcode of the NJUCC, as specified in N.J.A.C. 5:23-8, as well as the NJDEP, as specified in N.J.A.C. 7:27-17.2.

2. An inspection for asbestos containing materials shall be conducted as part of the Indoor Environmental Health Assessment. If the New Jersey Department of Health determines that corrective action must be taken to minimize exposure potential, the sponsor or sponsor representative shall follow the recommendation of that department for enclosure, removal, or other appropriate action to remove the threat or risk of asbestos contamination, as specified in N.J.A.C. 5:23-8.

(k) Swimming pool requirements are as follows:

1. Pools that are at least 24 inches in depth shall be defined as swimming pools and subject to the requirements specified in (k)2 below.

2. The center shall ensure that any swimming pool or natural bathing place used by the children complies with applicable provisions of the Public Recreational Bathing Rules, as specified in N.J.A.C. 8:26, and with applicable provisions of the Building Subcode and Barrier-free Subcode of the NJUCC, as specified in N.J.A.C. 5:23.

3. The center shall ensure that the children using swimming pools or natural bathing facilities are supervised in accordance with applicable provisions of the New Jersey Youth Camp Safety Act rules, as specified in N.J.A.C. 8:25.

4. If a child defecates in the swimming pool, all solid wastes shall be removed and the pool shall be super-chlorinated and not used until the chlorine level returns to levels identified as acceptable in the Public Recreational Bathing Rules, N.J.A.C. 8:26.

5. Wading pools that are 24 inches or less, are filled as needed, are portable, and do not have a filtration system are prohibited.

(l) Emergency procedure requirements are as follows:

1. The center shall prepare written emergency procedures delineating:

i. The location of the first aid kit and any additional first aid supplies;

ii. The name, address and telephone number of the physician retained by the center or of the health facility to be used in emergencies;

iii. An alternate indoor location that operates during the same operating hours as the center. The center shall:

a) Select an alternate indoor location within safe walking distance; or

b) Develop a written procedure for obtaining emergency transportation to the alternate location;

iv. The hospital or clinic to which injured or ill children will be taken;

v. The telephone numbers for obtaining police, fire, ambulance and poison control services, including the National Poison Emergency Hotline at (800) 222-1222;

vi. The location of written authorization from parent(s) for emergency medical care for each child;

vii. A diagram showing how the center is to be evacuated in case of emergency from each classroom and the outdoor play area;

viii. The location of fire alarms and fire extinguishers; and

ix. Procedures for ensuring children's safety and communicating with parents in the event of evacuation, lockdown, natural or civil disaster, and other emergencies. The procedures shall indicate:

a) The plan for informing parents of their children's whereabouts; and

b) The local law enforcement agency or emergency management office that has been notified of the center's identifying information, as specified in (l)3 below.

2. The emergency procedures shall be readily accessible in a designated location within the center.

3. The center shall ensure that the appropriate local law enforcement agency or emergency management office is notified of:

i. The center's name and location;

ii. The number, ages, and special needs of children enrolled;

iii. The number of staff;

iv. The need for emergency transportation;

v. The location to which children will be evacuated;

vi. The plan for a lockdown; and

vii. The plan for reuniting children with their parents.

4. The center shall conduct two lockdown drills per year and maintain on file a record of each lockdown drill. The center shall ensure that lockdown drills are conducted during each session provided at the center.

5. Ensure all locking devices, including those used for lockdown procedures:

i. Are acceptable for use by the local fire official; and

ii. Do not pose a risk of harm to the children; and

6. All staff shall be trained on the use of these devices.

(m) Supplemental evacuation requirements are as follows:

1. Children under 2 1/2 years of age shall be limited to the floor level of exit discharge in all buildings for centers that are new and relocating centers licensed after September 1, 2013. Centers that are permitted to have children under the age of 2 1/2 to occupy a floor above or below the level of exit discharge shall be required to provide additional staff in order to ensure safe and prompt evacuation.

2. Cribs, beds, playpens, and cots used for rest or sleep shall be arranged so as to provide access to a three-foot-wide aisle that leads to an unobstructed exit.

3. All centers providing care for non-ambulatory infants and toddlers shall have one evacuation crib for every four non-ambulatory children by March 6, 2018.

4. To assure the safe and timely evacuation of the children from the center during a fire or other emergency, centers required to secure a Certificate of Life/Safety Approval shall meet the minimum staff/child ratio requirements, as specified in N.J.A.C. 3A:52-4.3(c).

(n) Fire prevention requirements are as follows:

1. The center shall conduct fire drills at least once a month, as specified in the NJUFC. The center shall ensure that fire drills are conducted during each session provided at the center and that one fire drill per year is conducted during nap time, if applicable.

2. The center shall ensure that all children present are evacuated from the building within three minutes during each fire drill.

3. The center shall maintain on file a record of each fire drill, as specified in the NJUFC, which record shall include:

i. The date and time of day of the drill;

ii. The weather condition at the time of evacuation;

iii. The number of participating children and staff members; and

iv. The total amount of time taken to evacuate the center.

4. All fire extinguishers shall be visually inspected once a month, and serviced and tagged at least once a year and recharged, if necessary, as specified in the NJUFC.

(o) First aid requirements are as follows:

1. At least two staff members who have current certified basic knowledge of first aid principles and cardiopulmonary resuscitation (CPR), as defined by a recognized health organization (such as the American Red Cross), shall be in the center at all times when enrolled children are present.

2. The first aid and CPR training shall include a hands-on training component in addition to any online training coursework.

3. The following equipment shall be placed in a location that is convenient and accessible to staff members:

i. A standard first aid kit, which is fully restocked within 24 hours of use; and

ii. The American Red Cross First Aid Manual or its equivalent.

(p) Play equipment, materials, and furniture for indoor and outdoor use shall be of sturdy and safe construction, non-toxic, free of hazards, and used in accordance with the manufacturer's instructions. The center may not use play equipment intended for outdoor use indoors.

(q) Space and room requirements are as follows:

1. All space and rooms within the center to be used by children shall be inspected and approved by the Office of Licensing prior to their use. In making its determination, the Office of Licensing shall consider whether the space is too far removed, remote, or isolated from other areas of the center to be used by children.

i. For those rooms or areas that are too far removed, remote, or isolated from other centrally located rooms or areas of the center, the Office of Licensing may require the use of additional staff members, above those required for staff/child ratios, before granting approval.

ii. Rooms or areas of the center that are not Office of Licensing-approved for use by children shall be made inaccessible to children.

2. At no time shall a center:

i. Allow more children in attendance than the licensed capacity as specified on the license or the Certificate of Life/Safety Approval;

ii. Allow more children in attendance than the licensed room capacity; or

iii. Operate in violation of the written conditions on its license or Certificate of Life/Safety Approval including, but not limited to, capacity or age restrictions for specific classrooms.

3. Indoor space requirements for play rooms and sleep rooms are as follows:

i. There shall be a minimum of 30 square feet of usable activity indoor floor space for each child in centers that:

a) Began operating prior to July 1, 1989; or

b) Began operating on or after July 1, 1989 and serve fewer than 16 children.

ii. There shall be a minimum of 35 square feet of usable activity indoor floor space for each child in centers that began operating on or after July 1, 1989 and serve 16 or more children.

iii. The minimum square footage of usable activity indoor floor space shall be determined by excluding the space used in or by hallways, toilet facilities, offices, storage rooms, staff rooms, furnace rooms, kitchen areas, lockers, closets, and other stationary equipment or areas that children do not use for sleep or play.

iv. Centers serving sick children shall comply with the variation provisions on determining net indoor floor space per child, as specified in N.J.A.C. 3A:52-8.4(a).

v. The center shall identify all rooms of the center that have been approved by the Office of Licensing. This identification shall consist of numbers, letters, names, or any other means of identification and shall be located either inside or directly outside each room.

4. Separate room or area requirements for children who become ill are as follows:

i. There shall be a room, section of a room, or a separate area in the center to which children who are exhibiting those illnesses, symptoms of illness, and diseases specified in N.J.A.C. 3A:52-7.1(c) shall be taken and where they shall be cared for until they can return home, be suitably cared for elsewhere, or be diagnosed as posing no health risk to themselves or others.

ii. The separate room, section or area shall be furnished with sleeping equipment and sheets, blankets or other coverings.

iii. Centers serving only sick children shall comply with the variation provision for separating ill children, as specified in N.J.A.C. 3A:52-8.4(b) and (c).

(r) The center shall take any steps required by the Office of Licensing to correct conditions in the building or center that may endanger the health, safety, and well-being of the children served.

§ 3A:52-5.4 Additional physical plant requirements for early childhood programs

(a) For early childhood programs, the following shall apply:

1. All electrical outlets that are accessible to the children shall have protective covers.

2. All lally columns in areas used by the children shall have protective padding placed around them from the floor to a height of at least 48 inches.

3. Crawl spaces, attic spaces, and all doors and windows used for natural ventilation shall be provided with insect screening.

4. A supply of hot tap water not exceeding 110 degrees Fahrenheit and cold running water shall be provided.

5. Toilet and sink facility requirements are as follows:

i. The minimum number of toilets and sinks required in the center shall be determined as specified in the Plumbing Subcode of the NJUCC.

ii. At least one toilet facility and sink shall be located on each floor level used by children in centers that began operating after March 21, 2005.

iii. For each classroom used by children under 2 1/2 years of age, a minimum of one sink shall be located in the classroom for newly-constructed centers and expansions.

6. Kitchen facility requirements are as follows:

i. The kitchen facility or food preparation area shall be separated from other areas of the center by a door, gate, screen, or other barrier to prevent accidental access by children.

ii. The kitchen may be used for children's program cooking activities only when it is not being used for preparation of meals for consumption by enrolled children.

7. Outdoor space requirements for children over the age of 10 months are as follows:

i. For children in attendance for three or more consecutive hours, existing center(s) shall provide a minimum of 150 square feet of net outdoor space. When more than five children are using such a space at one time, there shall be 30 square feet of net outdoor space for each additional child in addition to the required minimum of 150 square feet. New and relocating centers licensed on or after September 1, 2013, shall provide a minimum of 350 square feet of net outdoor space. When more than 10 children are using such a space at one time, there shall be an additional 35 square feet of net outdoor space for each additional child in addition to the required minimum of 350 square feet.

ii. The outdoor area for new and relocating centers licensed on or after September 1, 2013, shall be in close proximity and safe walking route of the center and available for use by the children.

iii. Outdoor areas located near or adjacent to hazardous areas determined by the Office of Licensing to be unsafe (including, but not limited to, streets, roads, driveways, parking lots, railroad tracks, swimming pools, rivers, streams, steep grades, cliffs, open pits, high

voltage boosters, or propane gas tanks) shall be fenced or otherwise protected by a natural or man-made barrier or enclosure.

iv. The center shall not be required to meet the outdoor space requirement in (a)7i above, if the center can establish, to the satisfaction of the Office of Licensing, that:

a) Compliance with the requirement is impossible at the proposed center site or an alternative site, expected to serve the same geographic location;

b) There is a compelling need, as determined by the OOL on a case-by-case basis, for additional child care services in the local area; and

c) There is a designated indoor active play area not used toward the center's licensed capacity that provides 35 square feet per child for at least 25 percent of the licensed capacity of the facility with a minimum of 350 square feet;

v. Centers serving only sick children shall comply with the variation provisions for outdoor space, as specified in N.J.A.C. 3A:52-8.4(f)1.

§ 3A:52-5.5 Additional physical plant requirements for school-age child care programs

(a) For school-age child care programs, the following shall apply:

1. All lally columns in areas used by the children shall have protective padding around them from the floor to a height of at least 72 inches.

2. For centers that serve food, crawl spaces, attic spaces, and all doors and windows used for natural ventilation shall be provided with insect screening.

3. A supply of hot tap water not exceeding 120 degrees Fahrenheit and cold running water shall be provided.

4. Toilet facility requirements are as follows:

i. Children shall be afforded privacy, appropriate to their age and development, when toileting.

ii. The center shall have one toilet and one sink for every 25 children, as specified in the Plumbing Subcode of the NJUCC for the E use group.

iii. Toilet facilities and sinks shall be located no more than one floor above or below the floor levels used by the children.

§ 3A:52-5.6 Special physical facility and monitoring requirements to prevent child abuse or neglect

(a) At least five foot-candles of natural or artificial light shall be provided in all rooms used by children during naptime. The illumination shall be measured three feet above the floor at the farthest point from the light source.

(b) Doors in all interior rooms designated for use by children shall remain unlocked.

(c) For rooms and areas used by children, except as specified in (e) below, the following monitoring requirements shall apply:

1. The center shall equip every room or area designated for use by children, except for kitchen and toilet facilities, with one of the following options in order to promote maximum visibility and audibility:

i. A centrally supervised audio or visual monitoring system;

ii. Uncovered and unobstructed glass panels or two-way mirrors that comprise at least 10 percent of the square footage of one interior wall, provided that such panels or mirrors are not in conflict with applicable provisions of the NJUCC or the NJUFC;

iii. Security mirror(s) in hallways that reflect activities in the room(s) used by children;

iv. At least one interior door leading to every room designated for use by children, which shall meet one of the following conditions, provided that such conditions are not in conflict with applicable provisions of the NJUCC and the NJUFC:

a) Be left open;

b) Have uncovered and unobstructed windows or cutouts;

c) Be a dutch door variety, with the top half open; or

d) Be removed; or

v. Any other Office of Licensing-approved monitoring system or equipment that provides equivalent visibility and audibility.

(d) Toilet facility requirements are as follows:

1. For existing centers that have only one toilet facility, or for existing centers that have more than one toilet facility, but where all toilets have been counted in determining the maximum number of children who can be served per session, the center shall ensure that staff members and other adults who use the toilet facility for their own toileting needs do so only:

i. When children are not in it; and

ii. After the staff member or other adult has secured the door with a lock or latch that is located on the inside of the door at a height beyond the reach of the children.

2. If a center documents to the satisfaction of the Office of Licensing that it lacks the authority to meet the lock or latch provisions noted in this subparagraph, the Office of Licensing may approve an alternative means by which the center may comply with the privacy intent of this provision.

3. For existing centers that have an additional toilet facility that has not been counted in determining the maximum number of children who can be served per session and for centers to be located in newly constructed buildings, the center shall ensure that:

i. One toilet facility is reserved and designated for the exclusive use of staff members and other adults; and

ii. This designated toilet facility is identified by a sign located on the exterior of its door, indicating that this toilet facility is for the exclusive use of staff members and other adults.

(e) For early childhood programs, the following shall apply:

1. Centers that are to be located in newly constructed buildings that seek to serve 16 or more children shall equip every room designated for use by children, except for kitchen and toilet facilities, with either uncovered glass panels or two-way mirrors that comprise at least 10 percent of the square footage of at least one interior wall in order to promote maximum visibility in such rooms.

§ 3A:52-6.1 Activities

(a) The center shall develop and provide a variety of children's planned activities, geared to the ages and developmental levels of the children served, that:

1. Promote the development of language, thinking and problem-solving skills, curiosity, exploration, large and small muscles, coordination and movement skills, social competence, self-esteem, and positive self-identity; and

2. Are relevant to the cultural background of the children and foster intercultural awareness.

(b) The staff member(s) specified in N.J.A.C. 3A:52-4.5 who are responsible for developing and overseeing the implementation of the center's daily activities shall ensure that:

1. Time frames for each activity are geared to the age and developmental level of each child served and are flexible enough to accommodate spontaneous occurrences or children's suggestions and inquiries;

2. Children have opportunities to choose materials freely and materials are accessible at all times except during lunch and nap time;

3. Children are presented with and encouraged to participate in a mixture of active and quiet experiences;

4. Both staff-directed and child-selected activities are provided;

5. Children are:

i. Encouraged, but not required, to participate in every group activity; and

ii. Provided with the time and space within the area to be apart from the group and to participate in an alternate activity if they choose to do so;

6. Children are provided with daily structured and unstructured developmentally appropriate indoor and outdoor energetic physical activity as follows:

i. At least 30 total minutes daily for children receiving child care less than four hours;

ii. At least 60 total minutes daily for children receiving child care more than four hours; and

iii. Whenever feasible, and unless the child is eating, sleeping, needs to complete a seated activity, or is ill, children shall not be inactive for more than 30 minutes; and

7. The use of a television, computers, and other video equipment shall be limited to educational and instructional use, shall be age and developmentally appropriate, and shall not be used as a substitute for planned activities or for passive viewing.

i. Centers shall prohibit the use of television, computers, and other video equipment for children under the age of two.

ii. Centers shall develop a written policy regarding the use of television, computers, and other equipment for children over the age of two and maintain on file written plans for

such use and the length of time for their use. In addition, centers shall develop a written policy for the use of such equipment as it pertains to children in care less than four hours and children in care more than four hours.

iii. Centers shall develop written plans for children with special needs who may benefit from the educational or instruction use of a television, computer, or other video equipment.

(c) The center shall ensure that each child riding a bicycle wears a helmet, as specified in the Bicycle Helmet Law, N.J.S.A. 39:4-10.1.

(d) Centers serving sick children shall comply with the variation on developing and providing children's activities, as specified in N.J.A.C. 3A:52-8.5(a).

(e) The center shall ensure that pacifiers are removed when the children are crawling or walking.

(f) The staff member(s) specified in (b) above shall prepare and maintain on file a written outline of the center's daily activities, as specified in (a) through (d) above and (f) and (g) below.

(g) For early childhood programs, the following shall apply:

1. The center shall provide daily outdoor activities at an outdoor play area, park or playground, or on a walk, weather permitting.

2. Centers serving children less than 18 months of age shall provide at least four types of children's daily activities including, but not limited to, sensory; language and dramatic play; manipulative; building; large muscle; music; or other comparable activities; and at least four types of supplies and equipment for each activity area chosen by the center.

3. Staff members shall provide periodic activity or learning opportunities to stimulate the five senses of non-ambulatory children.

4. Staff members shall ensure infants have age-appropriate, supervised tummy time at least twice per day.

5. Staff members shall provide all children who are developmentally able with opportunities to leave their cribs, playpens, or other Office of Licensing-approved sleeping equipment to crawl, toddle, walk, and play.

6. The use of infant equipment including swings, exersaucers, and bouncers shall be limited to periods of 30 minutes at a time.

7. Centers serving children 18 months of age and older shall provide at least five types of children's daily activities including, but not limited to, language; science and mathematics; manipulative; large muscle; building; art; music; drama; or other comparable activities; and at least five types of supplies and equipment for each daily activity chosen by the center.

8. Centers that operate during evening hours shall ensure that the activity level for children is reduced in preparation for sleep and shall provide a selection of toys or other materials for quiet activities.

(h) For school-age child care programs, the following shall apply:

1. Centers shall plan and implement programs that include:

i. Activities that reflect the interests and skills of the children served;

ii. Opportunities for child involvement in activity planning;

iii. Opportunities for self-selected activities;

2. Recreational opportunities, including a mixture of indoor, outdoor, and large muscle activities; and

3. Daily schedules that include individual quiet times, structured and unstructured activities, and small-group and large-group activities.

§ 3A:52-6.2 Program equipment for children's daily activities

(a) The center shall provide a supply of age-appropriate and developmentally appropriate program equipment, including play equipment, child-size furniture and supplies that are:

1. Sufficient to meet the daily activity needs of the children and the program; and
2. Non-toxic and safe for use by children in the age groups served.

§ 3A:52-6.3 Food and nutrition

(a) All centers shall comply with the following requirements:

1. Food served to children who are present during normal mealtime hours or required snack periods, as specified in (b) and (c) below, shall be provided either by the child's parent or by the center.

2. If the center chooses to provide food, the center shall ensure that all food served to children is prepared by either:

i. The center on-site or off-site; or

ii. A caterer who is licensed, registered, certified, or otherwise approved, as appropriate, by the local or county health department or State Department of Health, as applicable.

3. If the center chooses to have parents provide food, the center shall have a supply of food at the center for any child whose parent forgets.

4. If the center provides food, the center shall ensure that the food is stored, prepared, and served in a sanitary manner.

5. Staff members shall advise parents of any repetitive feeding problems experienced by their child.

6. Staff members shall not force-feed or coerce a child to eat against his or her will.

7. A snack shall be served to all children who are under the center's care for at least three consecutive hours and for all children who are served on an after-school basis.

8. Drinking water shall be made available to all children.

9. Centers that provide meals shall ensure that:

i. For children on special diets (for example, due to health reasons, religious belief or parental request), an alternative choice of food is provided by either the center or the child's parent; and

ii. Individualized written diets and feeding schedules, if submitted to the center by the child's parent or health care provider, are posted in a location that is accessible to staff members caring for the children, and are followed.

10. The center shall have a supply of food at the center and shall serve a snack to any child who is hungry or has missed a meal.

11. Unless contraindicated by the parent or health care provider, the center shall:

i. Not serve sugar sweetened or artificially sweetened beverages. Parents that provide such beverages for their children shall be provided with information regarding healthier options;

ii. Not provide solid food to children under the age of six months;

iii. Not provide cows' milk to children under the age of 12 months;

iv. Provide only whole pasteurized milk to children between the ages of 12 and 24 months or milk with reduced fat (two percent) for those children who are at risk for hypercholesterolemia or obesity;

v. Provide skim (fat-free) or one percent milk to children older than two years of age;

vi. Ensure that food and beverages are in accordance with minimum Child and Adult Care Food Program's (CACFP) standards, contained in the Child and Adult Care Food Program, 7 CFR 226.20, which is incorporated herein by reference, and can be obtained at http://www.fns.usda.gov/cnd/care/childcare.htm, including portion size and nutritional value;

vii. Provide a variety of both fruits and vegetables and high portion of whole grains; and

viii. Limit foods that are high in solid fats, added sugar, trans fats, and sodium.

12. The center shall ensure that these safety and sanitation practices are followed:

i. Older infants shall not carry bottles, sippy cups, or regular cups with them while crawling or walking;

ii. Sippy cups shall be labeled with the child's name;

iii. Food left uneaten in a dish shall be discarded;

iv. Food shall not be shared among children using the same dish or spoon; and

v. Unused portions of food shall be labeled with the child's name, date, and type of food. The food shall be stored in the refrigerator, returned to the parent, or discarded with the parent's consent. All unused food shall be discarded if not consumed by the end of the day.

(b) For early childhood programs, the following shall apply:

1. Centers operating for more than three consecutive hours shall have a working refrigerator.

2. Food brought from outside the center for a child shall be inspected by a staff member for spoilage before it is served.

3. Feeding requirements for centers serving children less than 18 months of age are as follows:

i. The center shall develop mutually with each child's parent(s) and follow a feeding plan regarding the feeding schedule, specific formula, breastfeeding arrangements and accommodations, and/or expressed breast milk, nutritional needs, and introduction of new food for each child.

4. For children less than 12 months of age, the feeding plan shall be:

i. Documented in writing;

ii. Maintained on file; and

iii. Made available to each staff member responsible for feeding each child;

5. All food served to a child shall be appropriate to the child's developmental eating ability;

6. The requirements for bottles are as follows:

i. Each child's bottle(s) shall be labeled with the child's name and dated;

ii. The center shall sanitize each child's bottles, including the nipples, when the center provides the bottles;

iii. Breast milk shall be gently mixed but not be shaken;

iv. Refrigerated breast milk must be used within 24 hours;

v. Formula or breast milk that is served, but not completely consumed or refrigerated, shall be discarded; and

vi. No milk, formula, or breast milk shall be warmed in a microwave oven;

7. A child who is too young to use a feeding chair or other seating apparatus shall be held when fed;

8. A child who, because of age or developmental readiness, no longer needs to be held for feeding shall be provided with an infant seat, high chair with safety strap, or other age-appropriate seating apparatus, which meets the standards of a recognized safety organization (such as the Juvenile Products Manufacturers Association, the American Society for Testing and Materials, or the United States Consumer Product Safety Commission);

9. When a child is feeding, the bottle shall not be propped at any time; and

10. When a child is bottle-feeding while resting, the bottle shall be removed when the child falls asleep.

11. Mealtime and snack requirements for centers serving children 18 months of age or older and those children younger than 18 months of age who are developmentally ready to eat regular meals and snacks are as follows:

i. Centers that provide breakfast shall ensure that breakfast includes the following:

a) Fruits, vegetables or fruit or vegetable juice; and

b) Enriched whole grain bread, a bread product or cereal and/or a protein alternative.

ii. The center shall serve lunch for all children who have not eaten lunch and are:

a) Present during 11:00 A.M. to 1:00 P.M.; and

b) Under the center's care for at least five consecutive hours;

iii. The center shall serve dinner for all children who:

a) Have not eaten dinner;

b) Are present from 5:00 P.M. to 7:00 P.M.; and

c) Are scheduled to remain after 7:00 P.M.;

iv. Centers that provide meals shall ensure that lunch and dinner for each child include the following:

a) Meat, poultry, fish or a protein alternative;

b) Fruits or vegetables;

c) Bread or bread products; and

d) Milk, juice or water;

e) Centers that provide snacks shall ensure that the snack includes one juice, milk, or fruit and one food supplement selected from the lunch and dinner choices specified in (b)4iv above, except on special occasions, such as holidays and birthdays; and

f) Centers that provide meals shall ensure that milk is served at least once a day.

(c) For school-age child care programs, the following shall apply:

1. Centers that store perishable foods or medication shall have access to a refrigerator.

2. Centers that provide snacks should include one juice, milk or fruit and one food supplement selected from the food choices specified above.

3. On days when school is not in session, if applicable, the center shall serve meals as specified above.

§ 3A:52-6.4 Rest and sleep requirements for early childhood programs

(a) For early childhood programs, the center shall provide opportunities for daily rest and sleep as follows:

1. For children 12 months of age and younger, the center shall ensure that each child is initially placed in a face-up sleeping position unless a different position is indicated in writing by the child's health care provider.

2. For children from 13 to 18 months of age, the center shall provide daily rest and sleep according to the child's physical needs and ensure that blankets or pillows do not cover the child's face.

3. Swaddling of children during rest and sleep is prohibited.

4. For children over the age of 18 months and under the age of four years, the center shall provide:

i. Daily rest or sleep for each child who attends the center for four or more consecutive hours;

ii. Daily rest or sleep for each child who attends the center for fewer than four consecutive hours, but whose individual physical needs call for a rest period while the child is at the center; and

iii. An alternative quiet activity for each child who has rested or slept for 30 minutes and does not appear to need additional rest or sleep.

(b) The center shall provide sleeping equipment for each child as follows:

1. For children 12 months of age and younger, the center shall provide for each child a crib, that complies with the Consumer Product Safety Commission's (CPSC) Federal Safety Standards for Full-Size and Non-Full-Size Baby Cribs; 16 CFR 1219 and 1220, which is incorporated herein by reference, and can be obtained through the CPSC's website at http://www.cpsc.gov/businfo/frnotices/fr11/cribfinal.pdf, playpen, or other Office of Licensing-approved sleeping equipment that meets the following requirements:

i. Each crib or playpen shall be equipped with:

a) A firm, waterproof, snugly fitting mattress;

b) A clean, snugly fitting sheet;

c) Top rails that are at least 19 inches above the mattress; and

d) Slats that are not more than 2 3/8 inches apart.

2. Sleeping equipment shall be free of pillows and soft bedding, including, but not limited to, bumper pads, when occupied by a sleeping child.

3. Stackable cribs shall be prohibited.

4. For children over the age of 12 months and under the age of five years, the center shall provide for each child a crib that complies with the Consumer Product Safety Commission's (CPSC), Federal Safety Standards for Full-Size and Non-Full-Size Baby Cribs; 16 CFR 1219 and 1220,

which is incorporated herein by reference, and can be obtained through the CPSC's website at http://www.cpsc.gov/businfo/frnotices/fr11/cribfinal.pdf, playpen, cot, mat, or other Office of Licensing-approved sleeping equipment that meets the following requirements:

i. Each cot used for children between 13 and 18 months of age shall not exceed 14 inches above the floor level.

ii. Each cot or mat used for rest and sleep shall be covered with a sheet, blanket or other covering. An additional covering shall be provided for use as a covering for each child.

iii. Each mat used for rest and sleep shall be:

a) Placed on a surface that is warm, dry, clean and draft-free;

b) Water-repellent;

c) At least one inch thick; and

d) Stored so that there is no contact with the sleeping surface of another mat, or disinfected after each use, as specified in N.J.A.C. 3A:52-7.7(a)1.

5. Stackable cribs shall be prohibited.

(c) Centers that operate after 7:00 P.M. shall comply with the following requirements for rest and sleep:

1. For children who attend the center for more than three hours after 7:00 P.M., the center shall:

i. Establish bedtime schedules for each child in consultation with parent(s);

ii. Ensure that any Office of Licensing-approved sleeping equipment, other than a bed or mat, has been fitted with a minimum one-inch thick water-repellent mat or mattress; and

iii. Ensure that each child is changed into sleeping garments.

(d) All sleeping equipment shall meet the standards of a recognized safety organization (such as the Juvenile Products Manufacturers Association, the American Society for Testing and Materials, or the United States Consumer Product Safety Commission).

(e) Sheets, blankets and other coverings shall be:

1. Changed when wet, soiled or damaged; and

2. Changed before use by another child.

(f) When cribs, playpens, cots, mats or other Office of Licensing-approved sleeping equipment are stored with sheets, blankets, or other coverings as single units, at least one item of each unit shall be labeled with child-identifying information.

(g) When sheets, blankets and other coverings are not stored with sleeping equipment, each of these items shall be:

1. Labeled for each child; and

2. Stored separately for each child.

(h) During rest and sleep periods, only one child shall occupy a crib, playpen, cot, mat, or other Office of Licensing-approved sleeping equipment at one time.

(i) Children shall not use pacifiers with straps or other types of attachment devices.

§ 3A:52-6.5 Policy on the release of children

(a) The center shall maintain on file and follow a written policy on the release of children, which shall include:

1. The provision that each child may be released only to the child's parent(s) or person(s) authorized by the parent(s), as specified in N.J.A.C. 3A:52-6.8(a)3, to take the child from the center and to assume responsibility for the child in an emergency if the parent(s) cannot be reached;

2. The provision that, if a particular noncustodial parent has been denied access, or granted limited access, to the child by a court order, the center shall secure documentation to this effect, maintain a copy on file, and comply with the terms of the court order;

3. Written procedures to be followed by staff member(s) if the parent(s) or person(s) authorized by the parent(s), as specified in (a)1 above, fails to pick up a child at the time of the center's daily closing. The procedures shall require that:

i. The child is supervised at all times;

ii. Staff members attempt to contact the parent(s) or person(s) authorized by the parents; and

iii. An hour or more after closing time, and provided that other arrangements for releasing the child to his or her parent(s) or authorized person(s) have failed and the staff member(s) cannot continue to supervise the child at the center, the staff member shall call the Department's State Central Registry Hotline (1-877 NJ ABUSE/1-877-652-2873) to seek assistance in caring for the child until the parent(s) or person(s) authorized by the child's parent(s) is able to pick up the child; and

4. Written procedures to be followed by a staff member(s) if the parent(s) or person(s) authorized by the parent(s), as specified in (a)1 above, appear to be physically or emotionally impaired to the extent that, in the judgment of the director or staff member, the child would be placed at risk of harm if released to such an individual. The procedures shall require that:

i. The child shall not be released to such an impaired individual;

ii. Staff members attempt to contact the child's other parent or an alternative person(s) authorized by the parent(s); and

iii. If the center is unable to make alternative arrangements, as noted in (a)3ii above, a staff member shall call the Department's State Central Registry Hotline (1-877 NJ ABUSE)/1-877-652-2873 to seek assistance in caring for the child.

(b) The center shall distribute a copy of the release policy to the parent of each enrolled child and each staff member and secure and maintain on file a record of each parent's and staff member's signature attesting to receipt of the policy.

(c) For school-age child care programs, the following shall apply:

1. No child shall be released from the program unsupervised except upon written instruction from the child's parent.

§ 3A:52-6.6 Discipline

(a) The methods of guidance and discipline used shall:

1. Be positive;

2. Be consistent with the age and developmental needs of the children; and

3. Lead to the child's ability to develop and maintain self-control.

(b) Staff members shall not discipline children for failing to eat or sleep or for soiling themselves.

(c) Staff shall not withhold active play time as a means of discipline unless the child's actions or behavior present a danger to themselves or others.

(d) Children may be removed from a group activity to another area, provided that the child so removed is either under the supervision of another staff member or continuously visible to a staff member.

(e) The center shall maintain on file a written policy on the disciplining of children by staff members. The policy shall:

1. Reflect the provisions specified in (a) through (c) above and include the acceptable actions that a staff member may take when disciplining a child (that is, discussion with the child, time-out, etc.);

2. Be distributed to every staff member; and

3. Be posted in a prominent location within the center.

(f) The center shall secure and maintain on file each staff member's signature, attesting to receipt of the policy on the disciplining of children by staff members.

(g) For school-age child care programs, the following shall apply:

1. The center shall permit children to participate in the development of the discipline rules and procedures; or

2. The center shall establish procedures to ensure that children are aware of the rules.

§ 3A:52-6.7 Special requirements to prevent child abuse or neglect and inappropriate staff behaviors toward children

(a) Staff members shall not use hitting, shaking or any other form of corporal punishment of children.

(b) Staff members shall not use abusive language, ridicule, harsh, humiliating or frightening treatment or any other form of emotional punishment of children.

(c) Staff members shall not engage in or inflict any form of child abuse or neglect.

(d) Staff members shall not withhold from children food, emotional responses, stimulation, or the opportunities for rest or sleep.

(e) Staff members shall not require a child to remain silent or inactive for an inappropriately long period of time for the child's age.

(f) Centers shall not prohibit staff members from or discipline staff members for:

1. Making good faith reports of suspected child abuse or neglect to the Division of Child Protection and Permanency or law enforcement; or

2. Taking photographs of children for the purpose of documenting injuries in support of a good-faith report of suspected child abuse or neglect to the Division of Child Protection and Permanency or law enforcement.

§ 3A:52-6.8 Parent and community participation

(a) The center shall complete and maintain on file for each enrolled child a Children's Records Checklist, signed by the director, sponsor, or sponsor representative and designated by the Office of Licensing, indicating that the center has obtained documentation of:

1. The child's name, address, birth date, and date of enrollment;

2. The name(s), home and work address(es), home and work telephone number(s) and signature(s) of the parent(s);

3. The name(s), address(es), and telephone number(s) of any person(s) authorized by the parent(s) to visit the child at the center and/or take the child from the center, as specified in N.J.A.C. 3A:52-6.5(a)1;

4. The name, address, and telephone number of the child's health care provider;

5. Signed authorization from the parent(s) for emergency medical treatment;

6. The parent's signature attesting to the receipt of the Information to Parents document, as specified in N.J.A.C. 3A:52-3.6(b); and

7. Health information for each child, as follows:

i. For early childhood programs, a record of the child's health examination and immunizations, as specified in N.J.A.C. 3A:52-7.3(a); or

ii. For school-age child care programs, a record of the parent's statement concerning the child's health, as specified in N.J.A.C. 3A:52-7.3(b).

(b) The center shall allow the parent(s) of enrolled children to visit the center at any time during the center's hours of operation to observe its operation and program activities without requiring the parent(s) to secure prior approval.

(c) The center shall provide the parents of prospective enrollees the opportunity to visit the center to observe its operation and program activities, but may require that such visits are arranged in advance and at the convenience of the center director.

(d) Staff member(s) shall inform the parent(s) of enrolled children in advance of any field trip(s), outing(s), or special event(s) involving the transportation of children away from the center. The center shall inform parents whether a school bus, other approved school vehicle, or private passenger vehicle will be used, and whether the driver will be a staff member, a parent, or another person. The center shall provide each parent with the name and telephone number of any bus company providing service. Before taking a child on such a field trip, outing, or special event, the center shall either:

1. Secure individual written consent slips signed by a parent for his or her child(ren) for each proposed field trip, outing or special event;

2. Post a notice of a proposed individual field trip, outing or special event in a place of prominence within the center, on which the parent shall be asked to sign consent for his or her child to attend; or

3. Issue to every parent a written schedule of all field trips, outings or special events to be taken during any given time frame (that is, weekly, monthly, yearly). A parent shall be asked to sign this schedule indicating his or her consent for any or all field trips, outings or special events listed.

(e) The center may utilize a blanket permission slip for taking children on walks only if:

1. Walks are within the center's neighborhood;

2. The center makes arrangements for the handling of visits or telephone calls from parents either by:

i. Having someone remain at the center; or

ii. Utilizing a telephone answering machine and posting a notice on the entrance door of the center to inform parents of the children's location;

iii. The route of the walk involves no safety hazards; and

iv. The walk involves no entrance into a facility unless the facility has been indicated on the blanket permission slip.

(f) The center shall maintain on file a record of signed blanket permission slips for walks and signed individual permission slips for field trips, outings or special events.

(g) The center should promote the involvement of representatives of the community to enhance the staff members' and the children's knowledge of community services, programs and resources.

(h) For early childhood programs, the following shall apply:

1. The center shall adopt at least one of the following options to ensure the participation of the parents of enrolled children in the activities and operations of the center.

i. A governing board responsible for approving, reviewing, and monitoring the center's policies, budget, staff recruitment and selection, physical environment, and program activities;

ii. An advisory committee that offers advice and counsel to the center on its policies, staff recruitment and selection, physical environment, and program activities;

iii. An annual meeting to which all parents and staff members are invited for the purpose of sharing goals, recommendations and concerns. The center shall maintain on file a record of this meeting; or

iv. An annual open house to which parents are invited for the purpose of observing the program. The center shall maintain on file a record of the open house.

2. Centers choosing the options specified in either (h)i or ii above shall maintain on file a listing of current members of the board or committee and documentation indicating that the board or committee is functioning. The board or committee shall:

i. Offer at least one-third of its membership positions to parents of enrolled children;

ii. Include representatives from the civic, business, educational, or child care communities; and

iii. Meet at least quarterly during the center's operating year.

3. The center shall provide for the direct involvement of parents of enrolled children in the center's operation and activities by:

i. Providing an opportunity for parents to volunteer to help in the center's program; and

ii. Holding individual parent/staff conferences semi-annually and upon request of the parent or staff member(s) to discuss the child's needs and progress.

4. The center shall provide for the parents of each newly enrolled child an opportunity to attend an enrollment conference, at which the center shall:

i. Inform parents about the center's days and hours of operation;

ii. Discuss the individual child's habits, dietary and sleep needs, activities, behavior and development, if applicable;

iii. Discuss the center's policy on releasing children, toilet training children when applicable, and administering medication and health care procedures;

iv. Discuss and distribute the center's policy on the management of communicable disease, as specified in N.J.A.C. 3A:52-7.11;

v. Discuss and distribute the Information to Parents document, as specified in N.J.A.C. 3A:52-3.6(a); and

vi. Discuss and distribute the center's policy on the expulsion of children from enrollment at the center, as specified in (j) below.

(i) For school-age child care programs, the following shall apply:

1. Upon the child's enrollment, the center shall:

i. Inform parents about the center's days and hours of operation;

ii. Ask parents to inform the center about the individual child's habits, dietary needs, activities, behavior and development, if applicable;

iii. Inform parents about the center's policies on releasing children and administering medication and health care procedures;

iv. Give parents a copy of the center's policy on the management of communicable disease, as specified in N.J.A.C. 3A:52-7.11;

v. Give parents a copy of the Information to Parents document, as specified in N.J.A.C. 3A:52-3.6(a);

vi. Give parents a copy of the center's policy on the expulsion of children from enrollment at the center, as specified in (j) below; and

vii. Inform parents about the center's policy for serving meals and snacks when the center is operating on days when the child's school is not in session, if applicable.

(j) The center shall develop and follow a written policy on the expulsion of children from enrollment at the center.

1. The expulsion policy shall include:

i. The circumstances under which a child may be expelled;

ii. The method that the center will use to notify parents of concerns that could lead to expulsion, such as written notification or a parent conference;

iii. Sufficient time limits before expulsion to enable parents to make alternative child care arrangements or to take the necessary corrective action to allow the child to remain at the center, except as specified in (j)1iv below; and

iv. Circumstances that may warrant immediate expulsion of a child from the center, such as potentially dangerous behavior by a child or parent.

2. The center shall not expel a child based solely on the child's parent making a complaint to the Office of Licensing regarding a center's alleged violations of the licensing rules or questioning a center directly regarding policies and procedures.

3. The center shall distribute a copy of the expulsion policy to the parent of each enrolled child and secure and maintain on file a record of each parent's signature attesting to receipt of the policy.

4. If the center determines to expel a child, the center shall maintain on file a record of the circumstances, parental notification, and corrective action taken.

(k) The center shall develop and follow a written policy on the use of social media including, but not limited to:

1. The use of social networking sites and other websites;

2. The use of e-mail, text messages, and other electronic means of communication with staff and parents;

3. The types of social media that the center uses;

4. The methods and devices the staff use to communicate with the parent;

5. The guidelines for appropriate conduct by staff members; and

6. The guidelines for parents including, but not limited to, prohibiting the posting of photographs or videos of any child other than their own.

7. The center shall distribute a copy of the social media policy to the parent of each enrolled child and to each staff member and secure and maintain on file a record of each parent's signature and each staff member's signature attesting to the receipt of the policy.

(l) In the event of temporary or permanent closure of the center, the center shall provide advance notice to parents of enrolled children in sufficient time to enable parents to make alternative child care arrangements.

§ 3A:52-7.1 Illnesses and communicable diseases

(a) A center that seeks to serve any children who have any of the illnesses, symptoms of illness, or diseases specified in (c) and (d) below shall meet all applicable provisions of this subchapter and all provisions of N.J.A.C. 3A:52-8.

(b) Under no circumstances shall any center serve or admit any child who has any illness, symptom of illness or disease that a health care provider has determined requires the child to be:

1. Confined to home under a health care provider's immediate care; or

2. Admitted to a hospital for medical care and treatment.

(c) The following provisions relate to illness or symptoms of illness:

1. A center serving well children shall not permit a child who has any of the illnesses or symptoms of illness specified in (c)1i through xiii below to be admitted to the center on a given day unless medical diagnosis from a health care provider, which has been communicated to the center in writing, or verbally with a written follow-up, indicates that the child poses no serious health risk to himself or herself or to other children. Such illnesses or symptoms of illness shall include, but not be limited to, any of the following:

i. Severe pain or discomfort;

ii. Acute diarrhea, characterized as twice the child's usual frequency of bowel movements with a change to a looser consistency within a period of 24 hours, or bloody diarrhea;

iii. Two or more episodes of acute vomiting within a period of 24 hours;

iv. Elevated oral temperature of 101.5 degrees Fahrenheit or over or axillary temperature of 100.5 degrees Fahrenheit or over in conjunction with behavior changes;

v. Lethargy that is more than expected tiredness;

vi. Yellow eyes or jaundiced skin;

vii. Red eyes with discharge;

viii. Infected, untreated skin patches;

ix. Difficult rapid breathing or severe coughing;

x. Skin rashes in conjunction with fever or behavior changes;

xi. Weeping or bleeding skin lesions that have not been treated by a health care provider;

xii. Mouth sores with drooling; or

xiii. Stiff neck.

2. Once the child is symptom-free, or a health care provider indicates that the child poses no serious health risk to himself or herself or to other children, the child may return to the center.

3. If a child who has already been admitted to the center manifests any of the illnesses or symptoms of illness specified in (c)1 above, the center shall remove the child from the group of well children to a separate room or area, as specified in N.J.A.C. 3A:52-5.3(q)4, until:

i. He or she can be taken from the center; or

ii. The director or his or her designee has communicated verbally with a health care provider, who indicates that the child poses no serious health risk to himself or herself or to other children, at which time the child may return to the group.

4. The center may exclude a child whose illness prevents the child from participating comfortably in activities or results in a greater need for care than the staff can provide without compromising the health and safety of other children at the center.

(d) The following provisions relate to excludable communicable diseases:

1. The center shall not permit a child or staff member with an excludable communicable disease, as set forth in the Department of Health's Reporting Requirements for Communicable Diseases and Work-Related Conditions Quick Reference Guide, revised July 2011, and available at http://www.nj.gov/health/cd/documents/reportable_disease_magnet.pdf, incorporated herein by reference, as amended and supplemented to be admitted to or remain at the center, until:

i. A note from the child's or staff member's health care provider states that the child or staff member, respectively, has been diagnosed and presents no risk to himself, herself, or to others;

ii. The center has contacted the Communicable Disease Program in the State Department of Health and Senior Services, or the local health department pediatric health consultant, and is told the child or staff member poses no health risk to others; or

iii. If the child or staff member has chicken pox, the center obtains a note from the parent or staff member stating that all sores have dried and crusted.

§ 3A:52-7.2 Attendance by children or staff members known to be infected with Human Immunodeficiency Virus (HIV)

(a) The center should admit a child known to be infected with HIV, the virus that causes Acquired Immunodeficiency Syndrome (AIDS), to the center.

(b) The center should not exclude a child known to be infected with HIV in order to protect him or her from possible exposure to the infectious diseases of other persons at the center.

(c) The center should not exclude a child solely for the reason that such individual lives with or is related to a person known to be infected with HIV.

(d) The director shall maintain the confidentiality of any child or staff member known to be infected with HIV.

(e) The center shall not require the routine medical screening of children or staff members in a center to detect the presence of HIV.

§ 3A:52-7.3 Health and immunization requirements for children

(a) For early childhood programs, the following shall apply:

1. Each child not enrolled in a public or private school shall have had a health examination performed by a health care provider, within:

i. Six months prior to admission, for children who are 2 1/2 years of age or younger; or

ii. One year prior to admission, for children above 2 1/2 years of age.

2. For each child not enrolled in a public or private school, upon admission, the center shall maintain on file at the center a Universal Child Health Record (Department of Health Form CH-14) or its equivalent, updated annually, along with an immunization record, and a special care plan, if applicable. A 30-day grace period is permitted in N.J.A.C. 8:57-4.5(e):

i. For children coming from other states or countries in accordance with N.J.A.C. 8:57-4.6 and 4.7; and

ii. For children who are in foster care or experiencing homelessness as defined by the McKinney-Vento Act, 42 U.S.C. § 11434a(2).

3. For children enrolled in a public or private school, the center shall obtain a written statement from each child's parent indicating:

i. That the child is in good health and can participate in the normal activities of the program; and

ii. Any conditions or specific needs that may require special accommodations.

4. If immunizations are contraindicated for medical reasons, the center may choose to admit the child, provided that the parent submits to the center a written statement from a health care provider, as specified in N.J.A.C. 8:57-4.3, attesting to the following:

i. The reason the immunization is medically contraindicated; and

ii. The specific time period that the immunization is medically contraindicated.

5. A child shall be exempted from a physical examination, immunization, or medical treatment if the parent objects thereto in a written statement submitted to the center, signed by the parent, explaining how the examination, immunization, or medical treatment conflicts with the child's exercise of bona fide religious tenets or practices.

i. Religiously-affiliated centers shall have the authority to withhold or grant a religious exemption from the required immunization for children entering or attending their centers without challenge by any secular health authority, as specified in N.J.A.C. 8:57-4.4.

ii. The center shall maintain the parent's written statement on file as part of the child's record.

iii. Those children with immunization exemptions may be excluded from the center by the Office of Licensing or the Department of Health during a vaccine-preventable disease outbreak or threatened outbreak, as determined by the State Commissioner of Health.

(b) For school-age child care programs, the following shall apply:

1. The center shall obtain a written statement from each child's parent indicating:

2. That the child is in good health and can participate in the normal activities of the program; and

3. Any conditions or special needs that may require special accommodations.

§ 3A:52-7.4 Health requirements for staff members

(a) Prior to or upon beginning work at the center, each staff member whose job duties require contact with the children for at least 20 percent of the center's weekly operating hours shall take a Mantoux tuberculin skin test with five TU (tuberculin units) of PPD tuberculin, except that the staff member shall have a chest x-ray taken if he or she has had a previous positive Mantoux tuberculin test. The staff member shall submit to the center written documentation of the results of the test and x-ray.

1. If the Mantoux tuberculin test result is insignificant (zero to nine millimeters (mm) of induration), no further testing shall be required. The Office of Licensing or center may at any time require a staff member to retake the Mantoux tuberculin test if there is reason to believe or suspect that the staff member may have contracted tuberculosis or if the State Department of Health recommends retesting.

2. If the Mantoux tuberculin skin test result is significant (10 or more mm of induration), the individual shall have a chest x-ray taken. If the chest x-ray shows significant results, the staff member shall not come in contact with the children unless he or she submits to the center a written statement from a health care provider certifying that he or she poses no threat of tuberculosis contagion.

(b) Prior to beginning work, each staff member whose job duties require contact with the children for at least 20 percent of the center's weekly operating hours shall submit a written statement from a health care provider, indicating that he or she is in good health and poses no health risk to persons at the center. Such statement shall be based on a medical examination within the six months immediately preceding such person's working at the center.

(c) The center shall maintain on file either at the center or at a central administrative office the results of each staff member's:

1. Mantoux tuberculin test and chest x-ray when indicated; and

2. Physical examination.

(d) The sponsor or sponsor representative or director shall exclude a staff member who:

1. Exhibits the illnesses or symptoms of illness or diseases specified in N.J.A.C. 3A:52-7.1(c)1 and (d); or

2. Appears to be physically, emotionally or mentally impaired or who appears to have a drug-induced or alcohol-induced condition that would endanger the health, safety, and well-being of a child while the child is in the staff member's care. The director shall document the action taken to exclude the staff member and maintain such documentation on file. The center shall not permit the staff member to return to the center until the condition is no longer present.

(e) When the affected staff member specified in (d) above serves as the director, then the sponsor or sponsor representative shall take the necessary action specified in (d) above.

(f) When the affected staff member specified in (d) above is the sponsor or sponsor representative, then the Office of Licensing shall take the necessary action specified in (d) above.

§ 3A:52-7.5 Administration and control of prescription and non-prescription medicines and health care procedures

(a) The center shall inform each child's parent upon enrollment of its policy on administering medication and health care procedures to children, including the provisions specified in (b) to (d) below. The policy shall indicate:

1. Whether the center will administer non-prescription medication or a non-prescribed health care procedure to a child;

2. Whether the center will administer prescription medication or a prescribed health care procedure to a child with a short-term illness; and

3. That the center will provide reasonable accommodations for the administration of medication or health care procedures to a child with special needs, if failure to administer the medication or health care procedure would jeopardize the health of the child or prevent the child from attending the center.

(b) The center shall develop and follow a policy on the administration of medication and health care procedures to children, which shall include the following provisions:

1. Medication and health care procedures shall be administered only after receipt of written approval from the child's parent(s).

2. The center shall:

i. Designate those staff members who are trained as specified in N.J.A.C. 3A:52-4.8(a)8 and authorized to administer medication or health care procedures to, or to supervise self-administration of medication or health care procedures by, those children whose parents authorize it; and

ii. Ensure that each staff member designated to administer medication and health care procedures is informed of each child's medication and health care needs.

3. All medication and health care equipment shall be kept either in a locked cabinet or in an area that is inaccessible to the children.

i. All medication shall be kept in its original container.

ii. Medication shall be refrigerated if so indicated on the label.

iii. Unused or expired medication and health care equipment shall be returned to the child's parent or disposed of safely in a child-resistant waste receptacle when no longer being administered.

4. All prescription medication for a child shall be:

i. Prescribed in the name of and specifically for the child; and

ii. Stored in its prescription container, which has been labeled with the child's name, the name and expiration date of the medication, the date it was prescribed or updated and directions for its administration.

5. The center shall limit the dispensing of non-prescription over-the-counter medication to the following types of medicines, which shall be dispensed in accordance with the recommended dosage for the age and weight of the child, as indicated on the label:

i. Antihistamines;

ii. Cough suppressants;

iii. Decongestants;

iv. Non-aspirin fever reducers and pain relievers; and

v. Topical preparations, such as sunscreen and diaper rash preparations.

6. The center may permit the dispensing of non-prescription medication other than those listed in (b)5 above, or according to instructions other than those indicated on the label, if the child's health care provider authorizes it in writing.

7. The center shall maintain on file a record of the following:

i. The child's name and parental authorization for the center to administer medication or health care procedures;

ii. The name of the medication or health care procedure;

iii. The condition for which the medication or health care procedure is being used;

iv. The instructions for administration, including the dosage and frequency;

v. The date and time medication or a health care procedure was administered to a child and the name or initials of the staff member who administered it; and

vi. Any adverse effect the medication can have or has had on the child.

8. If a child has a chronic health condition requiring the administration of prescription or non-prescription medication or health care procedures on a long-term basis, the center shall obtain from the child's parent a written statement from a health care provider, indicating:

i. The name of the child;

ii. The name of the medication or procedure;

iii. The condition or indications for administration of the medication or procedure;

iv. The instructions for administration of the medication or procedure; and

v. The name and telephone number of the health care provider.

9. Before administering a health care procedure associated with a child's health condition, such as the use of a blood glucose monitor, nebulizer, or epinephrine pen, the center shall ensure that all staff members who administer the procedure are taught to do so by the child's parent or another appropriately trained person. There shall be at least two staff members present at the center who are trained in such health care procedures.

10. The center shall store prescribed epinephrine pens in their original boxes with the child's name and prescription. A special care plan or other documentation from a health care provider shall

accompany the epinephrine pen. If two epinephrine pens are required, both shall be available. Each center under the jurisdiction of N.J.S.A. 18A:40-12.5 shall store back-up epinephrine pens on site consistent with the requirements stated at N.J.S.A. 18A:40-12.5.e(1).

11. The center shall inform the child's parent immediately if a child exhibits any adverse effect of a medication or health care procedure.

(c) For early childhood programs, the following shall apply:

1. The center shall ensure that all medication and health care procedures are administered by designated staff.

(d) For school-age child care programs, the following shall apply:

1. Before the center administers or permits a child to self-administer medication or health care procedures, the center shall:

i. Obtain written authorization for self-administration from the child's parent, if applicable; and

ii. Ensure that the medication or health care procedure is administered by or under the supervision of authorized staff.

§ 3A:52-7.6 Injury to a child while in the center's care

(a) The center shall take immediate necessary action to protect the child from further harm and shall immediately notify the child's parent(s) when one of the following occurs while the child is in the center's care:

1. A child is bitten and the skin is broken;

2. A child sustains a head or facial injury, including when a child bumps his or her head;

3. A child falls from a height greater than the height of the child; or

4. An injury requiring professional medical care occurs.

(b) The center shall maintain on file a written record of each incident resulting in an injury as specified in (a) above. These records shall include the following:

1. The name of the injured child;

2. The date, time and location of the incident;

3. The name and address of the center;

4. The name of the person completing the report;

5. The date the report was completed; and

6. A written description of the following:

i. The incident;

ii. The injury to the child;

iii. The names of witnesses to the incident; and

iv. The follow-up action taken by the center, including:

a) Application of first aid; and

b) Consultation or treatment by a licensed physician or other health care provider, if applicable.

(c) Bites and injuries other than those specified in (a) above shall be reported to the child's parent by the end of the day.

(d) Upon request of the child's parent, the center shall provide a written description of the incident by the end of the next operating day.

(e) The center shall develop and follow a written policy for parental notification if a method other than a telephone call is used at the center for parental notification.

1. The center shall distribute a copy of this policy to the parent of each enrolled child and secure and maintain on file a record of each parent's signature attesting to receipt of this policy.

§ 3A:52-7.7 Environmental sanitation requirements

(a) Disinfectants shall be used as follows:

1. The center shall disinfect those items specified in (a)3 below with a solution that shall be either:

   i. A commercially prepared disinfectant that indicates it kills bacteria, viruses, and parasites. This solution shall be used in accordance with label instructions; or

   ii. A self-made solution consisting of one-quarter cup of household bleach to each gallon of water (one tablespoon per quart), which shall be prepared daily and placed in a labeled, sealed container.

2. All areas to be disinfected shall first be washed with soap and water.

3. The schedule for disinfecting shall be as follows:

   i. The following equipment items or surfaces shall be washed and disinfected after each use:

      a) Washcloths made of fabric, when used for cleaning children;

      b) Thermometers;

      c) Items used by a child who becomes ill while at the center; and

      d) Sleeping mats that are not stored separately.

4. The following items shall be washed and disinfected at least daily:

   i. Toilets and toilet seats;

   ii. Sinks and sink faucets;

   iii. Drinking fountains;

   iv. Water table and water play equipment;

   v. Play tables; and

   vi. Smooth surfaced non-porous floors in areas used by children.

5. The following items shall be washed and disinfected at least weekly:

   i. Cribs, cots, mats, playpens, or other Office of Licensing-approved sleeping equipment; and

   ii. Sheets, blankets or other coverings.

6. Tables used by the children for eating shall be washed and disinfected before each meal.

(b) Centers that maintain outside sandboxes or play areas containing sand shall ensure that:

1. Only asbestos-free sand is used; and

2. The sand is maintained in a safe and sanitary manner.

(c) Pets shall be permitted in a center only under the following circumstances:

1. Pets kept by or located in the center, regardless of ownership, shall be:

i. Domesticated and non-aggressive;

ii. Free from disease;

iii. Vaccinated, if applicable, as prescribed by law or local ordinance. The record of the vaccinations shall be maintained on file, along with the name and address of the licensed veterinarian providing care for the pet(s);

iv. If sick, removed from the area(s) occupied by children, until the pet has been examined by a licensed veterinarian and has been diagnosed as presenting no risk to the children;

v. Effectively controlled by leash, command or cage; and

vi. Prohibited from the following areas:

a) Areas and surfaces used for food preparation, storage, or service;

b) Areas used for cleaning or storing of food utensils and dishes; and

c) Toilet facilities.

2. Animal waste shall be disposed of in sealed plastic bags in the outdoor garbage receptacle.

(d) Smoking shall be prohibited in all rooms and outside play areas while such rooms and areas are occupied by children. The center shall comply with each provision of P.L. 1998, c. 35 (N.J.S.A. 30:5B-5.3).

(e) For early childhood programs, the following shall apply:

1. In addition to the items specified in (a)3 above, the following equipment items or surfaces shall be washed and disinfected after each use:

i. Toilet training chairs and potty seats that have first been emptied into a toilet;

ii. Sinks and faucets used for rinsing a toilet training chair;

iii. Diapering surfaces;

iv. Toys mouthed by infants and toddlers before being given to another child; and

v. Bottles, nipples and other feeding equipment.

2. All diaper pails and lids shall be disinfected daily.

3. Centers that toilet train children shall:

i. Utilize non-porous toilets, child-size toilets, toilet training chairs (potties) or children's toilet seats for children being toilet trained;

ii. Ensure that toilet training chairs are not used in kitchens or in the immediate area where meals are being served; and

iii. Advise parents of the center's toilet training policy.

4. Poisonous plants shall not be kept in the center or in the outside play area used by the children.

§ 3A:52-7.8 Personal hygiene requirements

(a) Handwashing requirements are as follows:

1. The center shall ensure that children three months of age and older wash their hands with soap and running water:

i. Before intake of food;

ii. Immediately after using the toilet or having diapers changed;

iii. Immediately after coming into contact with blood, fecal matter, urine, vomit, nasal secretions, or other body fluids or secretions;

iv. Immediately after coming in contact with an animal's body secretions; and

v. Immediately after outdoor play.

2. For children under three months of age or for those children three months of age and older wherein hand washing with soap and running water may not be developmentally appropriate, the center may use an alternate means for hand washing, including, but not limited to, disposable baby wipes.

3. When cloth towels are used by children, the towels shall be designated solely for the individual child's use.

4. Staff members shall wash their hands with soap and running water immediately:

i. Before preparing or serving food;

ii. After toileting;

iii. After assisting a child in toileting;

iv. After caring for a child who appears to be sick;

v. After coming in contact with an animal's body secretions; and

vi. After coming into contact with blood, fecal matter, urine, vomit, nasal secretions, or other body fluids or secretions.

(b) Staff members shall use disposable rubber gloves, which shall be discarded after each use, when coming into contact with blood or vomit.

(c) Centers that encourage children to brush their teeth while at the center shall individually store toothbrushes in a manner that prevents the toothbrushes from touching each other during storage.

(d) For early childhood programs, the following shall apply:

1. Diapering requirements for centers serving children who are not toilet trained are as follows:

i. Staff members shall ensure that:

a) Each child's diaper is changed when wet or soiled;

b) Each child's bottom is washed and dried during each diaper change with an individual disposable wash cloth, paper towel or disposable diaper wipes; and

c) The staff members' hands are washed after changing each diaper.

2. Diapering area and surface requirements are as follows:

i. Diapering shall not take place in an area or on a surface used for food preparation, service or eating.

ii. The diapering area shall be within 15 feet of a sink that is not used for food preparation.

iii. The diapering surface shall be flat, smooth, clean, dry, non-absorbent, and in good repair.

3. Diapering supply requirements are as follows:

i. A supply of clean diapers shall always be available.

ii. Diapering supplies, including diapers, shall be stored in an area out of the children's reach but easily accessible to staff members during a diaper change.

iii. Equipment used for cleaning the diapering surface shall be restricted for use in this area only and shall be disposable or laundered in hot soapy water.

iv. Staff members who use disposable gloves during a diaper change shall dispose of these gloves after each use and shall wash their hands.

4. Soiled diapers shall be disposed of as follows:

i. Soiled disposable diapers shall be placed in a closed container that is lined with a leakproof or impervious lining. Such diapers shall be removed from the center daily and placed in a closed garbage receptacle outside the building.

ii. Soiled non-disposable diapers shall be placed in a sealed plastic container that has been labeled with the child's name. Such diapers shall be returned to the child's parent at the end of that day.

5. Clothing requirements are as follows:

i. A child's clothing shall be changed when wet or soiled.

ii. The center shall ensure that a change of clothing is provided for each child.

6. Soiled clothes shall be:

i. Placed in a sealed plastic container that has been labeled with the child's name and returned to the child's parent at the end of that day for laundering; or

ii. Laundered at the center in a washing machine.

iii. For clothing soiled with fecal matter, the stool shall be emptied into the toilet.

§ 3A:52-7.9 Illness log for early childhood programs

(a) For early childhood programs, the following shall apply:

1. The center shall maintain on file a log of the initial illnesses, symptoms of illness, or diseases that are exhibited by each child while in the center's care, as specified in N.J.A.C. 3A:52-7.1(c) and (d). This illness log shall include:

i. The child's name;

ii. The date and time the illness, symptoms of illness or diseases were observed at the center;

iii. A description of the symptoms of illness manifested by the child;

2. The action taken by the center to assist:

i. The child who is demonstrating symptoms of illness; and

ii. The director in determining if exclusion of the child from the center is necessary;

iii. Any significant change in the child's symptoms of illness; and

iv. The date, if applicable, that:

a) The child was removed from the center;

b) The child returned to the center with a note from a health care provider attesting to the child's admissibility to the center and recovery from a reportable disease, as specified in N.J.A.C. 8:57;

c) The child returned to the center with a parent's note attesting that six days have elapsed since the onset of chicken pox, or that all chicken pox sores have dried and crusted; or

d) The child returned to the center symptom-free.

§ 3A:52-7.10 Reporting of illnesses, injuries, and reportable diseases

(a) The director, sponsor, or sponsor representative, upon learning that an enrolled child or staff member at the center has been diagnosed as having contracted or is suspected of having a reportable disease, as specified in N.J.A.C. 3A:52-7.1(d), shall report this knowledge by the next working day to the local health department.

(b) The director, sponsor, or sponsor representative shall report the following occurrences to the Office of Licensing by the next working day after the center learns of the occurrence and shall submit documentation to the Office of Licensing within one week of the occurrence of the incident:

1. The occurrence of an injury or illness while under the center's supervision that results in a child visiting the emergency room;

2. The occurrence of an injury or illness while under the center's supervision that results in a child's admittance to the hospital;

3. The death of a child while under the center's supervision; or

4. The occurrence of an injury or illness that results in a call to 911, on-site medical or transported emergency care, or urgent care.

(c) The director, sponsor, or sponsor representative, having knowledge that a child has been injured by a dog, cat, or other animal that is kept by or located at the center, and when no physician attends such child, shall, within 12 hours of the injury, report the name, age, sex, and address of the child to the local health department.

§ 3A:52-7.11 Information to parents regarding the management of communicable diseases

(a) Each center shall develop a written policy on the management of communicable diseases. This policy shall include the following:

1. The list of illnesses and symptoms of illness for which a child will be separated from the group and possibly sent home, as specified in N.J.A.C. 3A:52-7.1(c);

2. The list of diseases for which a child will not be readmitted to the center unless accompanied by a statement from the child's health care provider, as specified in N.J.A.C. 3A:52-7.1(d); and

3. Assurance that during any outbreak of an excludable disease at the center, as specified in N.J.A.C. 3A:52-7.1(d), each parent whose child may have been exposed to the disease shall receive a written notice of the outbreak.

(b) The center shall distribute a copy of the policy on the management of communicable diseases to the parent of each child enrolled and secure and maintain on file a record of each parent's signature attesting to receipt of the policy.

(c) Centers serving children who are sick shall comply with the requirements for information to parents, as specified in N.J.A.C. 3A:52-8.5(b).

§ 3A:52-8.1 Requirements for all centers serving sick children

(a) The provisions of this subchapter shall apply to any center that chooses to serve the following:

1. Only children who have illnesses, symptoms of illness or diseases, as specified in N.J.A.C. 3A:52-7.1(c) and (d); or

2. Some children who have illnesses, symptoms of illness or diseases, as specified in N.J.A.C. 3A:52-7.1(c) and (d), as part of a sick child care component of a center primarily serving well children.

(b) A center as set forth in (a) above shall also comply with all applicable provisions of this chapter.

(c) The center shall maintain on file written policies and procedures governing its operation, including:

1. Those categories of illness for which the center will provide care;

2. The ages of children who will be served;

3. The center's infection control procedures;

4. The center's admission criteria, which shall include provisions for conducting either:

i. A medical evaluation of arriving children by a New Jersey licensed physician; or

ii. A physical assessment, known as a triage, of arriving children by a registered nurse;

iii. The triage shall include, as appropriate to the demonstrated symptoms, an assessment of the child's temperature, pulse, respiration, skin, eyes, nose, throat, mouth, chest, abdomen, and extremities;

iv. A provision encouraging the parents, before bringing the child to the center, to call the center each day to:

a) Describe the child's illnesses, symptoms of illness or diseases; and

b) Determine if the center has an opening for the child;

5. For centers using a registered nurse as the admitting staff member, the physical assessment criteria that are used to determine:

i. Appropriateness of a child's attendance at the center on that day; or

ii. A child's need to be examined by a licensed physician, prior to being admitted to the center on that day;

6. The criteria and procedures for caring for or releasing children whose illnesses, symptoms of illness or diseases have worsened;

7. Methods and frequency of identifying and recording symptomatic changes throughout the day;

8. The preparation, frequency, and serving of meals that are appropriate for the child's illnesses, symptoms of illness, or diseases; and

9. The center's policy on communicating with parents concerning the child's illnesses, symptoms of illness, or diseases.

(d) The center shall arrange for a New Jersey licensed physician to serve as its consulting physician, providing medical advice and assistance on an on-call basis.

(e) The center shall have a governing board or an advisory board, which shall oversee the development of and approve in writing its policies and procedures, as specified in (c) above. The governing or advisory board shall include at least two of the following licensed health professionals:

1. A physician licensed by the New Jersey Board of Medical Examiners;

2. A registered nurse licensed by the New Jersey State Board of Nursing; or

3. A local health official.

(f) The consulting physician shall approve in writing the policies and procedures specified in (c) above.

§ 3A:52-8.2 Admission criteria

(a) The center shall not admit a sick child below three months of age unless the child has been seen and diagnosed by his or her health care provider who indicates in writing that the child can be admitted.

(b) The center shall require that a parent or an adult authorized by the parent accompany each child during admission to the center.

§ 3A:52-8.3 Requirements for additional staff for centers serving sick children

(a) The staff requirements for centers serving sick children are as follows:

1. In addition to the staff members required in N.J.A.C. 3A:52-4.2, the center shall ensure that a physician licensed by the New Jersey Board of Medical Examiners or a registered nurse licensed by the New Jersey State Board of Nursing is at the center during the hours children are in attendance.

2. The staff member specified in (a)1 above may also serve as the head teacher, group teacher or program supervisor where applicable, provided that:

i. The person meets the staff qualification requirements for such positions, based on the center size and type, as specified in N.J.A.C. 3A:52-4.6(c) and (d); or

ii. The person has two years of work experience with children of the age group being served.

3. In centers that primarily serve well children and provide sick care only as a component of the overall program, the physician or registered nurse, as specified in (a)1 above, shall be required to be at the center for at least 50 percent of the sick care component's daily operating hours, and shall be on call and available to come to the center immediately at all other times, provided that the following conditions are met:

i. The physician or registered nurse is present at all times when children are being admitted to the center;

ii. Sick care is provided only to children who are regularly enrolled in the center's program serving well children;

iii. No more than eight children are served in the sick care component at any one time;

iv. Children under six months of age are not admitted to the sick child care component at any time;

v. The physician or registered nurse assesses that no child will be placed at risk during the time when the physician or registered nurse is absent; and

vi. The on-call physician or nurse does not serve as the center's head teacher.

4. In centers specified in (a)3 above, the provisions specified in (a)3i through vii above need not be met if the physician or registered nurse remains at the center during all hours the children are in attendance.

(b) The responsibilities of the staff physician or registered nurse are as follows:

1. The physician or registered nurse, as specified in (a)1 above, shall be responsible for developing and implementing the center's medical program, including:

i. Conducting the daily admission assessment of each child, as specified in N.J.A.C. 3A:52-8.1(c)4;

ii. Maintaining records on each child, as specified in N.J.A.C. 3A:52-8.7(a); and

iii. Reviewing and administering medication, as specified in N.J.A.C. 3A:52-7.5(b), as applicable for each child.

(c) The following staff/child ratios shall apply:

Age of Child	Staff/Child Ratio
Birth up to 3 months of age	1:1
3 months up to 18 months of age	1:3
18 months up to 2 1/2 years of age	1:5
2 1/2 years of age and above	1:7

(d) Grouping of children shall be as follows:

1. The center shall group children according to the illnesses categorized below:

i. Upper-respiratory;

ii. Gastro-intestinal;

iii. Chicken pox; and

iv. Any other illness that has been included in the center's admission policy.

(e) Additional staff training shall be provided as follows:

1. The center shall provide training for each new staff member upon beginning work at the center and for all staff members annually.

2. Such training shall include:

i. Basic knowledge of first aid principles;

ii. Recognizing the symptoms of illness;

iii. Feeding sick children;

iv. When and how to call for medical advice;

v. Taking children's temperatures;

vi. Any other care that may be required for admissible illnesses and conditions;

vii. Infection control;

viii. Review of center policies and procedures;

ix. Child development, including activities for children who are sick; and

x. Communicating with parents concerning a child's illness.

§ 3A:52-8.4 Requirements for additional physical facilities for centers serving sick children

(a) There shall be a minimum of 50 square feet of net indoor floor space for each child.

(b) An individual room or a specific area within a large room, which is separated from other areas of the room by a partition or room divider, shall be available to separate and prevent contact between children who have different illnesses, symptoms of illness, or diseases.

(c) Centers whose policies allow for the care of children who have chicken pox or other illnesses that require isolation shall provide an isolation room for these children. Each isolation room shall have the following:

1. Continuous barriers that are floor to ceiling in height; and

2. Its own toilet facility, unless children using the isolation room can reach and use another toilet facility without coming into contact with other children.

(d) The center shall provide soap for handwashing from a liquid soap dispenser.

(e) Centers that serve only sick children shall not be required to have the following:

1. An outdoor space for the children's physical activities or its equivalent, as specified in N.J.A.C. 3A:52-5.4(a)7; and

2. A room or area in a separate section of the center for children who become ill, as specified in N.J.A.C. 3A:52-5.3(q)4.

(f) Centers that have a sick child care component, as specified in N.J.A.C. 3A:52-8.1(a)2, shall use separate play rooms and areas and separate toilet facilities for sick and well children.

§ 3A:52-8.5 Program requirements for centers serving sick children

(a) The center shall develop and provide a variety of children's planned daily activities that are appropriate for the needs and the condition of children who are sick.

(b) The center shall make available to parents of prospective enrollees information in writing on the center's program, including:

1. Illnesses, symptoms of illness, or diseases for which the center will provide care;

2. The center's admission criteria; and

3. The center's daily admitting procedures.

§ 3A:52-8.6 Sanitation and infection control

(a) The center shall ensure that all washable items of play equipment, supplies and toys that one group of sick children, as specified in N.J.A.C. 3A:52-8.3(d), have contacted are washed with soap and water and disinfected before allowing them to be used by another group of sick children.

(b) The center shall ensure that all personal items belonging to a child are returned to the parent each day.

§ 3A:52-8.7 Requirements for additional records for centers serving sick children

(a) The center shall maintain on file the following additional records:

1. Admission assessment information on each child, as specified in N.J.A.C. 3A:52-8.1(c)4;

2. The written policies and procedures developed by the center, as specified in N.J.A.C. 3A:52-8.1(c);

3. The written approval of policies and procedures by the center's governing board or advisory board and by the consulting physician, as specified in N.J.A.C. 3A:52-8.1(e) and (f);

4. Documentation of the training provided to all staff members, as specified in N.J.A.C. 3A:52-8.3(e); and

5. The Information to Parents document, as specified in N.J.A.C. 3A:52-8.5(b).

(a) The provisions of this subchapter shall apply to:

1. Each center that provides or arranges for the provision of transportation for children:

i. To or from their homes or other prearranged sites and the center; or

ii. In connection with an activity (such as a field trip) conducted by or through the auspices of the center; and

iii. Each person or agency other than the center that provides or arranges for the provision of transportation for children to or from their homes and a center.

(b) Each center, person or agency, as defined in (a) above, also shall comply with applicable provisions of New Jersey Motor Vehicle Commission (MVC) law, pursuant to N.J.S.A. 39:1-1 et seq., and the rules promulgated thereunder, as specified in N.J.A.C. 13.

§ 3A:52-9.2 Vehicle definitions

(a) A Type I School Bus means a bus with a capacity of 17 to 54 passengers, as indicated by the vehicle manufacturer, which has been painted in the color of uniform national school bus yellow, and is required by the Motor Vehicle Commission (MVC) to have New Jersey school vehicle Type I, "S1" designated license plates.

(b) A Type II School Bus means a bus with a capacity of 10 to 16 passengers, as indicated by the vehicle manufacturer, which has been painted in the color of uniform national school bus yellow if the bus was manufactured after April 1, 1977, and is required by the MVC to have New Jersey school vehicle Type II, "S2" designated license plates.

(c) A Type S School Vehicle means a vehicle with a capacity of nine or fewer passengers, as indicated by the vehicle manufacturer, and a gross vehicle weight rating of 3,000 pounds or more, which is required by the MVC to have New Jersey school vehicle Type II, "S2" designated license plates.

§ 3A:52-9.3 Vehicle requirements

(a) The center shall ensure that each vehicle used to provide transportation of enrolled children to and from the center, as specified in N.J.A.C. 3A:52-9.1(a), except private passenger vehicles, is equipped with the following:

1. Three triangular portable red reflector warning devices;

2. A fully charged fire extinguisher, with a gauge and with a minimum underwriters' rating of 2A 10BC, which shall be located at the front and securely mounted to the right of the driver in a way that does not constitute an obstruction or hazard to the passengers;

3. A seat belt cutter;

4. A removable first-aid kit located in an accessible place within the vehicle; and

5. Forward-facing seats, excluding folding seats and jump seats. Each seat exit shall be clear of obstructions.

(b) The center shall ensure that each Type I School Bus has school vehicle Type I, "S1" designated license plates and a valid School Bus inspection sticker issued by the Motor Vehicle Commission (MVC).

(c) The center shall ensure that each Type II School Bus has school vehicle Type II, "S2" designated license plates and a valid School Bus inspection sticker issued by the MVC.

(d) The center shall ensure that each Type S School Vehicle:

1. Has school vehicle Type II, "S2" designated license plates and a valid School Bus inspection sticker issued by the MVC;

2. Is equipped with a spare tire and a jack; and

3. Meets the requirements specified by the MVC.

(e) The center shall use a Type I School Bus, Type II School Bus or Type S School Vehicle at all times when transporting children, except as specified in (f) and (g) below.

(f) Any center may authorize staff members or parents of enrolled children to utilize their own private passenger vehicles to transport children from the center to and from scheduled center field trips, outings, or special events (such as visits to the zoo, library, or museum) or to transport children from the center to a hospital, clinic, or office for medical treatment, pursuant to N.J.S.A. 18A:39-20.1. However, staff members and parents may be authorized to do so only if:

1. The vehicle has a capacity of nine or fewer persons;

2. The driver possesses a valid Basic automobile driver's license issued by the MVC or a valid automobile driver's license issued by an approved out-of-State motor vehicle agency for the state in which the driver is a legal resident;

3. The vehicle has a valid motor vehicle inspection sticker issued by the MVC or by an approved out-of-State motor vehicle agency for the state in which the vehicle is legally registered;

4. The vehicle owner possesses vehicle liability insurance at least at the minimum amounts required by New Jersey State insurance law, pursuant to N.J.S.A. 17:28-1.1a, or at least at the minimum amounts required by a state other than New Jersey in which the vehicle is legally registered;

5. The center maintains transportation records on each vehicle, as specified in N.J.A.C. 3A:52-9.7(b); and

6. The center ensures that the driver and additional adults apply the safety practices, as specified in N.J.A.C. 3A:52-9.5(a) through (d) and (g) through (m).

(g) For school-age child care programs, the center may use an autobus under the jurisdiction of the Department of Transportation when chartered for scheduled center field trips, outings, or special events, provided that the driver and each additional adult apply the safety practices, as specified in N.J.A.C. 3A:52-9.5(a) through (e), (h), and (j) through (m).

(h) A center that provides or arranges transportation for physically disabled non-ambulatory children shall meet the additional vehicle requirements specified by the MVC.

§ 3A:52-9.4 Driver licensing requirements

(a) If a center uses a Type I School Bus, Type II School Bus, or Type S School Vehicle, the center shall:

1. Meet all applicable rules of the Motor Vehicle Commission (MVC), Department of Education, and Department of Children and Families;

2. Ensure that each driver of such a vehicle possesses a valid Commercial Driver License (CDL) in at least Class B or Class C, with a passenger endorsement, as required by the MVC for the gross vehicle weight rating (GVWR) of the vehicle, or an out-of-State equivalent license, as approved by the MVC; and

3. Submit a list of all drivers to the MVC when the vehicle is inspected by the MVC.

§ 3A:52-9.5 Vehicle-related safety practices

(a) Children shall never be left unattended in a vehicle.

(b) Children shall be accepted and discharged from the curbside of the vehicle.

(c) The interior and exterior of each vehicle shall be maintained in clean and safe condition, with clear passage to operable doors.

(d) All vehicles that are utilized to transport children shall be equipped with car seats (child passenger restraint systems) and booster seats that meet Federal motor vehicle safety standards, as appropriate for the age and weight of the children transported, in accordance with applicable provisions of Motor Vehicle Commission (MVC) law, pursuant to N.J.S.A. 39:3-76.2a and f or 39:3B-10 and 11, as applicable.

(e) The driver shall not transport more persons, including children and adults, than:

1. The occupancy of the Type I School Bus, as indicated by the vehicle manufacturer; or

2. The occupancy of the Type II School Bus, Type S School Vehicle, or other approved vehicle, as determined by the number of operable seat belts.

(f) The driver and each additional adult on the Type I School Bus shall ensure that:

1. All passengers are seated and remain seated when the bus is in motion; and

2. All passengers below 18 months of age are secured in the proper restraint system, as specified in (d) above, when the bus is in motion.

(g) The driver and each additional adult(s) on the Type II School Bus, Type S School Vehicle, and private passenger vehicle shall ensure that:

1. All passengers are seated and remain seated when the vehicle is in motion; and

2. Each child is secured in an operable seat belt or proper restraint system or booster seat, if applicable as specified in (e) above, when the vehicle is in motion.

(h) There shall be no standees in any vehicle transporting children.

(i) The center shall conduct two emergency evacuation drills each year for passengers who ride the Type I or Type II School Bus.

(j) The driver shall conduct a daily check of the vehicle, which shall include all safety equipment, to ensure that the vehicle is in sound operating condition.

(k) The driver shall conduct a check of the vehicle, after each run is completed, to ensure that no child has been left in the vehicle.

(l) Smoking shall be prohibited in all vehicles when occupied by children.

(m) For children below six years of age, the driver or additional adult(s) shall ensure that each child discharged from the vehicle is received by his or her parent or person designated by a child's parent.

(n) Children shall not remain in any vehicle for more than one hour at any given time on a daily basis.

§ 3A:52-9.6 Vehicle insurance

(a) Each center or person providing transportation services, as specified in N.J.A.C. 3A:52-9.1(a), shall:

1. Secure and maintain vehicle liability insurance for bodily injury or death in minimum amounts as specified in N.J.A.C. 13:20-49H.1;

2. Maintain on file at the center a copy of the insurance policy or documentation of current insurance coverage; and

3. Submit the insurance certificate to the Motor Vehicle Commission.

§ 3A:52-9.7 Transportation records

(a) When the center transports children in a vehicle other than a private passenger vehicle, as specified in N.J.A.C. 3A:52-9.3(f), or a chartered autobus, as specified in N.J.A.C. 3A:52-9.3(g), the center shall maintain on file:

1. A record of each child transported;

2. The name and address of each driver;

3. A photostatic copy of each driver's valid driver's license; and

4. The year, make and model of each vehicle used by the center to transport children.

(b) For center-authorized drivers providing periodic transportation in private passenger vehicles, the center shall maintain on file a checklist indicating that the provisions specified in N.J.A.C. 3A:52-9.3(f) have been met.

(c) The center shall maintain on file the names and addresses of the person(s) designated as the additional adult(s) and the license numbers of the school bus(es) or vehicle(s) to which they are assigned.

(d) The center shall maintain on file inspection and maintenance records for each vehicle, other than a private passenger vehicle or chartered autobus, used by the center to transport children. The center shall:

1. Ensure that each Type I School Bus, Type II School Bus and Type S School Vehicle is inspected by the Motor Vehicle Commission twice a year;

2. Ensure that the inspection and maintenance records for each vehicle meet the requirements specified in N.J.A.C. 13:20-30.3; and

3. For vehicles that have been leased or otherwise contracted for, maintain on file the name and address of the leaser or contractor furnishing the vehicle.

(e) The records specified in (d) above shall be retained in the center's files for the life of the vehicle.

(f) Documentation of emergency evacuation drills for all passengers who ride the Type I or Type II School Bus shall be maintained in a log containing the following information:

1. The date of the drill;

2. The number of passengers;

3. The time taken to evacuate the bus; and

4. The signature of the person conducting the drill.

(g) If transportation services are provided by the center, or by a firm under contract to or other arrangement with the center, the center shall maintain on file a copy of its own vehicle liability insurance, or of that firm's name and vehicle liability insurance coverage in the amount(s) specified in N.J.A.C. 3A:52-9.6.

(h) The center shall obtain written authorization from the parent or guardian before transporting a child to or from the center.

§ 3A:52-9.8 Vehicle staff requirements

(a) When one or more children are being transported, there shall be one adult in addition to the driver who remains in the vehicle when it is in motion, and who remains within sight of the vehicle when it has stopped to accept or discharge children, from the time the first child is picked up until the last child has reached his or her destination.

(b) When 13 or more children who are below 2 1/2 years of age are being transported, there shall be two adults in addition to the driver who remain in the vehicle when it is in motion, and who remain within sight of the vehicle when it has stopped to accept or discharge children, until fewer than 13 children remain, at which time one adult in addition to the driver shall remain until the last child has reached his or her destination.

(c) The center shall have a written policy and procedures to ensure the safe transportation of children, including, but not limited to, ensuring that children are secured in appropriate restraints. The center shall train each regularly-scheduled driver and additional adult as referred to in (a) and (b) above on this policy prior to starting his or her position.

§ 3A:52-9.9 (Reserved)

Title 3A, Chapter 53 -- Manual of Standards for Children's Shelter Facilities and Shelter Homes

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 2A:4A-20 et seq., 2A:4A-37, 9:3A-7.g, 9:3A-9, 30:1-14 and 15, and 30:4C-4(d).

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2016 d.033, effective March 10, 2016.

See: 47 N.J.R. 2613(a), 47 N.J.R. 2695(a), 48 N.J.R. 649(a).

Chapter 53, Manual of Standards for Children's Shelter Facilities and Shelter Homes, was recodified from N.J.A.C. 10:124, Manual of Standards for Children's Shelter Facilities and Shelter Homes, by administrative change, effective January 3, 2017. As part of the recodification, attendant technical changes were made to the rule text concerning cross-references, agency names, addresses, etc. See: 49 N.J.R. 98(a).

§ 3A:53-1.1 Legal authority

(a) This chapter is promulgated pursuant to N.J.S.A. 30:1-14 and 15, as applied by N.J.S.A. 9:3A-9, 30:4C-4.h, 2A:4A-37, and 2A:4A-20 et seq.

(b) Under N.J.S.A. 30:1-14, as applied by N.J.S.A. 9:3A-9, and N.J.S.A. 30:4C-4.(d), the Department of Children and Families is authorized to inspect, evaluate, and approve publicly or privately operated shelter facilities and shelter homes that:

1. Provide board, lodging, or care for children who are placed or financed by the Division of Child Protection and Permanency or any other State agency; and

2. Are not subject to licensing or regulation by any State agency.

(c) Under N.J.S.A. 2A:4A-20 et seq., the Department of Children and Families is mandated to inspect, evaluate, and "specify" (approve) shelter facilities and shelter homes that:

1. Are operated either directly or indirectly by a county government agency; and

2. Provide board, lodging, or care primarily for children in juvenile-family crisis as defined by State law, who are awaiting court disposition or post-disposition action.

(d) In order to be eligible to provide care for children, a shelter facility or shelter home described in (b) or (c) above shall demonstrate to the satisfaction of the Department of Children and Families or its duly authorized agent through such methods and procedures as may be prescribed that it complies with the rules of this chapter, which shall constitute minimum standards only.

(e) Responsibility for insuring that shelter facilities and shelter homes described in (b) and (c) above comply with the provisions of the statutes cited in (a) above and of this chapter is hereby delegated by the Department of Children and Families to the Office of Licensing.

(f) Under N.J.S.A. 30:1-15, the Department of Children and Families is authorized to "visit and inspect" publicly or privately operated shelter facilities and shelter homes that:

1. Provide board, lodging, or care for children who are not placed or financed by the Division of Child Protection and Permanency or any other State agency; and

2. Are not subject to licensing or regulation by any State agency.

(g) The Department of Children and Families or its duly authorized agent is authorized to "visit and inspect" shelter facilities and shelter homes as noted in (f) above, to assess the general health, safety, and well-being of the children and the care and treatment they are receiving. Although such shelter facilities and shelter homes cannot be required to comply with the rules in this chapter, the Department may use these rules as the basis for its inspection.

§ 3A:53-1.2 Definitions

The following words and terms, when used in this chapter, have the following meanings:

"Child" means any person who is under the age of 18.

"Children's shelter facility" or "shelter facility" means any public or private facility that provides 24-hour-a-day residential care to six or more children in a non-physically restrictive environment for a period of time usually not exceeding 30 days.

"Children's shelter home coordinator" or "shelter home coordinator" means a person responsible for the recruitment, coordination, operation and management of one or more children's shelter homes.

"Children's shelter home" or "shelter home" means any public or private residence that provides 24-hour-a-day residential care to five or fewer children in a non-physically restrictive environment for a period of time usually not exceeding 30 days.

"Children's shelter home parent" or "shelter home parent" means any person who provides 24 hour-a-day residential care for five or fewer children in a private residence under the supervision of a children's shelter home coordinator.

"Department" means the New Jersey Department of Children and Families.

"Division" means the Division of Child Protection and Permanency, New Jersey Department of Children and Families.

"Juvenile--family crisis" means behavior, conduct or a condition of a juvenile, parent or guardian or other family member which presents or results in:

(a) A serious threat to the well-being and physical safety of a juvenile, or

(b) A serious conflict between a parent or guardian and a juvenile regarding rules of conduct which has been manifested by repeated disregard for lawful parental authority by a juvenile or misuse of lawful parental authority by a parent or guardian, or

(c) Unauthorized absence by a juvenile for more than 24 hours from his home; or

(d) A pattern of repeated unauthorized absences from school by a juvenile subject to the compulsory education provision of Title 18A of the New Jersey Statutes.

"Manual of Standards for Children's Shelter Facilities and Shelter Homes" or "Manual of Standards" means the rules promulgated in this chapter, which shall constitute minimum requirements for children's shelter facilities and shelter homes.

"Office" means the Office of Licensing of the Department of Children and Families.

"Parent" means a parent, guardian, or any other person having responsibility for, or custody of, a child.

"Person" means any individual, agency, corporation, company, association, organization, society, firm, partnership, joint stock company, the State or any political subdivision thereof.

"Restrictive behavior management practice" means the use of physical restraint and exclusion as part of a comprehensive treatment plan to help the child develop self-control, to reduce maladaptive behavior, or to protect the child and others from harm.

"Staff member" means any person employed by or working for or with a children's shelter facility on a regularly scheduled basis. This shall include full-time, part-time, voluntary and substitute staff, whether paid or unpaid.

§ 3A:53-1.3 Population served by shelter facilities and shelter homes

(a) A shelter facility or shelter home provides care for children who are:

1. Abused;

2. Abandoned;

3. Dependent;

4. Neglected;

5. In need of temporary emergency care;

6. Runaways or otherwise in need of temporary care; and/or

7. Charged as a juvenile delinquent, pursuant to State law, and who would not be a threat to the physical, social, or emotional well-being of the other children at the shelter facility or shelter home.

§ 3A:53-1.4 Capacity and location of shelter facilities and shelter homes

(a) Capacity:

1. Shelter facility: A facility which provides care for a minimum of six and a maximum of 25 children. However, a shelter facility established after February 28, 1974, shall not exceed a maximum capacity of 12 children, unless approved by the Department.

2. Shelter home: A home which provides care for a maximum of five children, including the shelter home parent's children.

3. The Office may restrict new admissions to a shelter facility or shelter home upon a determination that the shelter facility or shelter home is regularly over the maximum number of children that the shelter facility or shelter home has been approved by the Office to serve.

(b) Location: A shelter facility or shelter home shall:

1. Be within easy access to community schools and programs and transportation resources; and

2. Not be part of a detention, jail or other lock-up facility.

§ 3A:53-1.5 Approval requirements

(a) A shelter facility or shelter home shall obtain approval from the Office in accordance with the legal authority specified in N.J.A.C. 3A:53-1.1(b) and (c) prior to establishment or operation.

(b) The Office shall conduct an annual on-site physical facility and a biennial comprehensive programmatic inspection of a shelter facility and a biennial comprehensive programmatic inspection of a shelter home to determine compliance with this chapter.

(c) If a shelter facility or shelter home meets all applicable provisions of this chapter, the Office shall issue a letter of approval.

(d) The Office shall provide notice if a letter of approval shall not be issued.

(e) If the Office determines that a shelter facility or shelter home is in substantial compliance with all applicable provisions of this chapter, providing that no serious or imminent hazard affecting the children exists, the Office may issue a letter of temporary approval.

(f) When a letter of temporary approval is issued, the Office shall provide a written statement explaining what the shelter facility or shelter home must do to achieve full compliance.

(g) A letter of temporary approval may be issued for a period not to exceed six months. The Office may issue as many temporary approvals as it deems necessary; however, a shelter facility or shelter home shall not operate pursuant to temporary approvals for more than 12 months.

(h) Each approval period, which may include the issuance of one or more letters of temporary approval and/or one letter of approval, shall be two years.

1. In determining the expiration date of the first letter of approval, the Office shall compute the two year period from the date of issuance of the first letter of approval or temporary approval.

2. In determining the expiration date of a renewed approval, the Office shall compute the two-year approval period from the date on which the shelter facility's or shelter home's previous letter of approval expired.

(i) The letter of approval or temporary approval shall be kept on file at the shelter facility or at the office of the shelter home coordinator.

(j) An authorized representative of the Office may at any time make an announced or unannounced visit and inspect the shelter facility or shelter home and/or review files, reports, or records to determine its compliance with this chapter and/or to investigate a complaint.

(k) A shelter facility's or shelter home's approval may be denied or revoked for any activity, policy, or conduct that presents a serious or imminent hazard to the health, safety, and/or well-being of a child or that otherwise demonstrates unfitness or inability to operate the shelter facility or shelter home.

(l) A shelter facility's or shelter home's approval may be denied, suspended, revoked, or refused for renewal for:

1. Failure by the facility or shelter home to secure and to maintain on file documentation from the Department showing compliance with criminal conviction disclosures, as specified in N.J.A.C. 3A:53-3.1(a), Criminal History Record Information background checks, as specified in N.J.A.C.

3A:53-3.8, or Child Abuse Record Information background checks, as specified in N.J.A.C. 3A:53-3.9;

2. Refusal by the facility director, shelter home coordinator, shelter home parent or shelter home household member to consent to or cooperate in a Criminal History Record Information background check or Child Abuse Record Information background check for himself or herself;

3. Refusal by the facility director, shelter home coordinator or shelter home parent to terminate the employment of a staff member who refuses to consent to or cooperate in a Criminal History Record Information background check or Child Abuse Record Information background check;

4. Refusal by the facility director, shelter home coordinator or shelter home parent to terminate the employment of a staff member when an allegation of child abuse or neglect has been substantiated against the staff member;

5. Refusal by the facility director, shelter home coordinator or shelter home parent to terminate the employment of a staff member convicted of a crime or offense requiring disqualification, as specified in N.J.A.C. 3A:53-3.8(e);

6. A substantiated allegation of child abuse or neglect against the facility director, shelter home coordinator, shelter home parent or shelter home household member; or

7. Conviction by the facility director, shelter home coordinator, shelter home parent or shelter home household member for a crime or offense requiring disqualification, as specified in N.J.A.C. 3A:53-3.8(e).

§ 3A:53-1.6 Administrative hearings

(a) To effectuate the purposes of this chapter, the Office may initiate an administrative hearing in the interest of justice.

(b) When the Office proposes not to approve or not to continue approval of a shelter facility or shelter home, the Office shall afford the shelter facility or shelter home notice and opportunity for an administrative hearing.

(c) All administrative hearings shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

§ 3A:53-1.7 Public access to Office records for children's shelter facilities and shelter homes

(a) Files of shelter facilities and shelter homes maintained by the Office are public records and shall be readily accessible for examination by any person, under the direction and supervision of the Office, except when public access to records is restricted in keeping with the State Public Records Law or other appropriate statutes.

(b) The Office shall establish policies governing the review by the public of shelter facility and shelter home records.

§ 3A:53-2.1 Statement of purpose

A shelter facility or a shelter home coordinator shall maintain on file a written statement of purpose for the shelter facility or shelter home(s). The statement of purpose shall be reviewed by the shelter facility staff members or shelter home parents and shall include a description of policies, purpose(s), objectives, services offered, eligibility requirements, and financial agreements for the care and treatment of children, in accordance with provisions of this chapter.

§ 3A:53-2.2 Rights of children

(a) The shelter facility or shelter home shall prepare a list of children's rights and shall post it in a prominent location in each shelter facility or shelter home or give it to each child and document such in each child's record. At a minimum, the list shall specify the children's right to:

1. Receive prompt medical treatment;

2. Have access to an appropriate education;

3. Live in a safe, clean, and healthy environment;

4. Be free of physical or sexual harassment or abuse and corporal punishment;

5. Attend religious services of their choice; and

6. Have unimpeded communication to the Department.

(b) The shelter facility or shelter home shall give this list of children's rights to the parents of the children applying for admission, to all staff members, and to all persons who request this information.

(c) The shelter facility or shelter home shall secure and maintain on file a record of the parents' and staff members' signatures attesting to their receipt of the list of children's rights.

(d) If the shelter facility or shelter home chooses to develop a search and seizure policy, the shelter facility or shelter home shall give all children, staff, and parents a copy of this policy, as specified in N.J.A.C. 3A:53-4.16.

(e) The shelter facility or shelter home shall prepare, post, or give to all staff members and children written grievance procedures governing how the children may raise questions about or voice disagreements with and concerns about procedures, care, and specific incidents. The shelter facility or shelter home shall not take or threaten to take retaliatory or disciplinary action of any kind against a child who uses the grievance procedure or files a grievance. The shelter facility or shelter home shall establish a procedure to explain these grievance procedures to children who are developmentally disabled.

§ 3A:53-2.3 Intake and admissions procedures

(a) Each child placed in a shelter facility or shelter home shall receive a medical examination within 72 hours of placement, unless the child received a medical examination by a physician no more than 30 days prior to placement and a written copy of the results of such examination is provided and kept on file. However, when the shelter facility or shelter home parent suspects that a child is ill or carrying a contagious disease, she or he shall be examined immediately upon admission.

(b) If a medical examination is required immediately or within 72 hours of placement under (a) above, that examination may be conducted by a physician or a nurse. If the examination is performed by a nurse, the child shall receive a medical examination performed by a physician within 10 days following admission.

(c) Upon the child's admission, the shelter facility or the shelter home coordinator shall obtain pertinent factual and identifying information including, as a minimum, the following:

1. Child's name (and nicknames), gender, date of birth, religion, and race;

2. Name, address, phone number, and relationship to the child of the person(s) with whom the child was living at the time of admission;

3. Name, address, and phone number of the father, mother, resource family parent(s), or legal guardian(s), if different from above;

4. Name, address and phone number of the person to notify in an emergency;

5. Names of siblings, their ages, and gender;

6. School attended, grade level and employer, if any;

7. Name, address, and phone number of the person bringing the child to the shelter facility or shelter home;

8. Name of the placing agency, if any;

9. Reason for placement of the child;

10. Date(s) and length of stay of previous admissions and releases, if any;

11. Child's medical history, chronic conditions, past serious illnesses, allergies, special diet.

(d) Following admission to a shelter facility or shelter home, each child shall be:

1. Given/take a bath or shower;

2. Provided with clean clothing;

3. Given a secure place to store valuables;

4. Informed of house rules and regulations; and

5. Informed of fire exits and evacuation procedures.

§ 3A:53-2.4 Reporting requirements

(a) The shelter facility or shelter home coordinator shall notify the Office within 24 hours after any of the following changes and events:

1. Unanticipated temporary or permanent closing of a shelter facility or shelter home;

2. Legal action against a shelter facility, shelter facility staff member, shelter home, or shelter home parent which involves or affects any child or the operation of the shelter facility or shelter home;

3. Damage to the premises of the shelter facility or shelter home caused by fire, accident, or the elements; or

4. Injury requiring hospitalization or action(s) resulting in the death of a child which occurred while the child was on the premises of the shelter facility or shelter home or while in the care of a shelter facility staff member(s) or shelter home parent(s).

(b) The shelter facility or shelter home coordinator shall notify the Office in writing at least 30 days prior to any of the following proposed changes and events:

1. Anticipated temporary or permanent closing or relocation of the shelter facility or shelter home for any reason;

2. Name or administration of the shelter facility;

3. Administrative staff member(s) of the shelter facility; or

4. Proposed change in the capacity of the shelter facility or shelter home.

(c) A shelter facility or shelter home shall notify the Department immediately if it is believed that a child has been or is being abused or neglected by staff, residents, or any other person, as required by N.J.S.A. 9:6-8.9, 8.10, 8.13, and 8.14. Copies of the law and information about it are available online at www.nj.gov/dcf/reporting.

§ 3A:53-2.5 Records

(a) General requirements for shelter facilities and shelter homes:

1. Records required to be maintained by the shelter facility or shelter home pursuant to this chapter shall be kept on file at the shelter facility or at the shelter home coordinator's office.

2. Records shall be open for inspection by an authorized representative of the Office.

3. The shelter facility or shelter home coordinator shall ensure the confidentiality of records, in accordance with State law.

(b) Children's records for shelter facilities and shelter homes: The shelter facility or shelter home coordinator shall keep on file a written record for each child, which shall be retained for at least one year following the discharge of the child. The record shall include:

1. Identifying information, as specified in N.J.A.C. 3A:53-2.3(c);

2. Health information, as specified in N.J.A.C. 3A:53-2.3(a) and (c)11;

3. Educational documentation, as specified in N.J.A.C. 3A:53-4.5(e); and

4. Documentation regarding the opening of a child's mail at a shelter facility or shelter home, as specified in N.J.A.C. 3A:53-4.14(c).

(c) Staff records for shelter facilities:

1. The shelter facility shall keep on file a written record of every staff member working at the shelter facility.

2. Staff records shall be retained for at least one year following a staff member's separation.

3. Staff records shall include the following information:

i. Name, address, and telephone number;

ii. Qualifications and references;

iii. Medical information, as specified in N.J.A.C. 3A:53-3.2;

iv. Dates of employment and prior work history;

v. Documentation of completion of a Criminal History Record Information background check, as specified in N.J.A.C. 3A:53-3.8, and a Child Abuse Record Information background check, as specified in N.J.A.C. 3A:53-3.9; and

vi. If terminated, date and reason.

(d) Administrative records for shelter facilities: Every shelter facility shall keep on file for at least one year the following written records:

1. A statement of purpose, as specified in N.J.A.C. 3A:53-2.1;

2. A copy of the shelter facility's insurance coverage including:

i. Comprehensive liability insurance; and

ii. Fire insurance.

3. Transportation records, if the shelter facility provides transportation, as specified in N.J.A.C. 3A:53-6.4;

4. A record of the performance of required twice monthly fire/evacuation drills, as specified in N.J.A.C. 3A:53-5.4(d);

5. A current copy of this chapter (Manual of Standards);

6. Staff members' work schedules and time sheets;

7. A record of in-service training programs for staff members, as specified in N.J.A.C. 3A:53-3.6(b);

8. A shift log book, which allows every staff member to comment on the activities of his or her working shift on a daily basis;

9. A medication log book, as specified in N.J.A.C. 3A:53-4.1(d);

10. A record of signed parental consent or a record of the attempt to obtain such consent when a child is in need of medical or surgical care;

11. A record of policies and procedures regarding discipline and control, as specified in N.J.A.C. 3A:53-4.12(a);

12. A record of all incidents/accidents, recorded on an incident/accident report form, explaining all details of the incident/accident and any action(s) taken by the staff/administration;

13. A record of a listing of approved visitors for each child, as specified in N.J.A.C. 3A:53-4.13(c);

14. A record of the health procedures, as specified in N.J.A.C. 3A:53-4.1(a);

15. A record of scheduled recreational activities, as specified in N.J.A.C. 3A:53-4.7(a).

16. A record of menus of food served to the children for a period of not less than the past 30 days;

17. A record of signed parental consent for a child participating in fund raising, publicity, photographing and audio or audiovisual activities related to the shelter facility; and

18. A list of the current membership of the governing body/citizens board, as specified in N.J.A.C. 3A:53-3.7(d).

(e) The shelter home coordinator shall keep the following information on file for each shelter home for at least one year after the shelter home parent's separation:

1. An application to provide shelter home care that shall include:

i. Identifying and background information for all members of the household;

ii. Three personal references for the shelter home parent(s); and

iii. A physician's statement attesting to the satisfactory physical and emotional health of all members of the household; and

2. If terminated or inactive, the date and reason; and

3. Documentation of completion of a Criminal History Record Information background check, as specified in N.J.A.C. 3A:53-3.8, and a Child Abuse Record Information background check, as specified in N.J.A.C. 3A:53-3.9, for the shelter home parent and each household member at least 18 years of age.

(f) The shelter home coordinator shall keep the following administrative records on file:

1. A current copy of this chapter (Manual of Standards);

2. A record of the health procedures, as specified in N.J.A.C. 3A:53-4.1(a); and

3. A record of signed parental consent for a child participating in fund raising, publicity, photographing and audio or audiovisual activities related to a shelter home.

§ 3A:53-3.1 Basic information

(a) Every shelter facility director, staff member, shelter home coordinator, and shelter home parent shall:

1. Be at least 18 years of age;

2. Be of good character and reputation;

3. Respect and understand children and be sensitive to and capable of meeting their needs;

4. Have a capacity to work and confer with professionals, consultants, parents and community groups;

5. Make a full disclosure of his or her background, experience, previous work, schooling, and arrests and criminal convictions, if any;

6. Secure a Criminal History Record Information background check, as specified in N.J.A.C. 3A:53-3.8, and a Child Abuse Record Information background check, as specified in N.J.A.C. 3A:53-3.9; and

7. Be in satisfactory physical, mental, and emotional health to perform his or her job duties satisfactorily.

(b) The following actions by a shelter facility director, staff member, shelter home coordinator or shelter home parent shall constitute grounds for possible suspension or termination from the job:

1. Failure to comply with the requirements stated in (a) above;

2. Failure to fulfill the responsibilities and duties of his or her position; and

3. A determination by the Department that the individual poses a risk of harm to children.

(c) Whenever the Department makes a determination that a facility director, staff member, shelter home coordinator, shelter home parent, or shelter home household member poses a risk of harm to children, the shelter facility or shelter home shall carry out the Department's recommendation for corrective action. Such corrective action may include, but not be limited to:

1. Removal or suspension of the affected individual from employment at the shelter facility or shelter home or reassignment to other duties that do not involve contact with the children; or

2. When the individual resides at the shelter home, removal of the affected individual from the premises.

(d) If an allegation of child abuse or neglect is substantiated against an individual working or residing at the shelter facility or shelter home, the shelter facility or shelter home shall immediately terminate the individual's employment at the shelter facility or shelter home. If the individual is a facility director, shelter home coordinator, shelter home parent, or shelter home household member, the Office shall deny, suspend, revoke, or refuse to renew the certificate of approval, as applicable.

1. The shelter facility or shelter home may appeal the denial, suspension, revocation, or refusal to renew, as specified in N.J.A.C. 3A:53-1.6.

2. The shelter home parent may choose to remove the household member against whom child abuse or neglect is substantiated from the shelter home before the action against the certificate takes effect.

(e) Every shelter facility shall have:

1. An administrator who shall be responsible for the actual operation and management of the shelter facility. She or he shall also designate staff to be in charge at all times during his or her absence;

2. A social service worker, who shall be responsible for developing and implementing the shelter facilities' social service program;

3. Licensed medical, licensed dental and psychological personnel on either a staff or consultation basis, including community providers, who shall be responsible for insuring that the medical, dental and psychological needs of the children are met;

4. Child care workers who shall be responsible for providing daily care and supervision of the children. Child care workers shall not be guards and shall be oriented and trained to work with children in a non-coercive manner;

5. A staff member designated to direct and be responsible for providing food services. If the staff member is not a registered dietician, the shelter shall arrange to receive consultation from a registered dietician, who shall approve the menus; and

6. Staff who shall be responsible for conducting everyday housekeeping and maintenance functions.

(f) A shelter facility may utilize volunteers and/or college students provided that the following requirements are met:

1. Volunteers and/or college students shall be aware of and have input into the service plan for children they are working with directly and be briefed fully on any special needs or problems they might encounter in working with these children on a continuing basis;

2. A volunteer and/or college student may serve in a staff position provided that he or she:

i. Meets the qualification for the position;

ii. Signs a statement agreeing to meet and perform the specific duties and responsibilities of the position;

iii. Has the time necessary to serve in the position on a regular basis; and

iv. Completes a Criminal History Record Information background check and a Child Abuse Record Information background check, as specified in N.J.A.C. 3A:53-3.1(a)6.

§ 3A:53-3.2 Health requirements for shelter facility staff

(a) Tuberculin testing requirements:

1. Prior to or upon working for or with a shelter facility, each staff member who comes in contact with the children for at least one full day a week shall take a Mantoux tuberculin skin test with five TU (tuberculin units) of PPD tuberculin and submit to the shelter facility written proof of the results of the test.

2. If the Mantoux tuberculin test result is insignificant (0 to 9 mm of induration), no further testing shall be required. The Office or shelter facility shall have the authority at any time in the future to require a staff member to retake the Mantoux tuberculin test, if there is reason to believe or suspect that the staff member may have contracted tuberculosis.

3. If the Mantoux tuberculin skin test result is significant (10 or more mm of induration), the individual shall take a chest x-ray. If the chest x-ray shows significant results, the staff member may not come in contact with the children unless she or he submits to the shelter facility a written statement from a physician certifying that she or he poses no threat of tuberculosis contagion.

4. Any staff member who fails to submit to or to receive satisfactory results from the tuberculin testing requirements, as described in (a)1 through 3 above, shall be prohibited from having contact with the children at the shelter facility.

(b) Prior to working for or with a shelter facility, and at least once every three years thereafter, each staff member who comes in contact with the children for at least the equivalent of one full day a week shall submit a written statement from a physician that she or he is in good health and free from chronic or recurrent communicable disease. The initial statement shall be based on an examination conducted within the six months immediately preceding such person's association with the shelter facility.

(c) Any staff member who, upon examination, shows indication of a physical, emotional or mental condition that could be hazardous to a child, other staff or self or that would otherwise prevent satisfactory performance of duties shall not be assigned or returned to a position until the condition is alleviated to the satisfaction of the examining physician and the administrator.

§ 3A:53-3.3 Qualifications for shelter facility staff

(a) Administrator: The administrator of the shelter facility shall:

1. Have a bachelor's degree from an accredited college or university and three years of professional experience in the human services field, one year of which shall have been a supervisory, administrative or clinical position; or

2. Have a master's degree from an accredited graduate school in one of the areas of study in the human services field, and two years of professional experience in the human services field, one year of which shall have been in a supervisory or administrative position; or

3. If applicable, meet the civil service requirements for the position.

(b) Social service staff: All social service workers of a shelter facility shall:

1. Have a bachelor's degree in social work or a related field from an accredited college or university and one year of professional experience in the human services field; or

2. Have a master's degree in social work or a related field from an accredited graduate school; or

3. If applicable, meet the civil service requirements for the position.

(c) Child care staff: All child care workers of a shelter facility shall:

1. Have a bachelor's or associate degree from an accredited college or university; or

2. Have a high school or high school equivalency diploma and one year of work experience involving the supervision of children in the human services field; or

3. If applicable, meet the civil service requirements for the position.

§ 3A:53-3.4 Qualifications for shelter home coordinator and shelter home parent

(a) The shelter home coordinator shall:

1. Have a bachelor's degree in the human services field from an accredited college or university and one year of professional experience in the human services field; or

2. Have a master's degree in the human services field from an accredited graduate school; or

3. If applicable, meet the civil service requirements for the position.

(b) A shelter home parent shall:

1. Be financially able to provide food, shelter and clothing for the shelter home family;

2. Be positively motivated to provide shelter home care;

3. Possess a realistic understanding of the positive and negative aspects of being a shelter home parent;

4. Have the ability and willingness to work cooperatively with the shelter home coordinator and the Office; and

5. Have the ability and willingness to maintain confidentiality regarding a shelter home child and his or her family.

§ 3A:53-3.5 Staff/child ratios for shelter facilities

(a) A minimum of two staff members shall be on duty at the shelter facility when children are present, except during sleeping hours when the shelter facility shall meet the requirements as specified in (b)1ii below.

(b) Each shelter facility shall provide minimum staff/child ratios based on the number of children in residence at the shelter facility as stated below:

1. Child care:

i. During waking hours, the child care staff/child ratios shall be as follows:

Child care staff	Number of children
1	Up to 8
2	9-14
3	15-20
4	21-25

ii. During sleeping hours, shelter facilities with an average daily population of three or fewer children shall have a minimum of one awake child care worker on duty. Shelter facilities with an average daily population of more than three children shall have a minimum of two child care workers, one of whom shall be awake and responsible for the supervision of the children.

2. Social services:

i. There shall be a minimum of one social service worker at the shelter facility.

ii. Shelter facilities with a capacity of 12 or fewer children may provide for social services on a part-time basis. The total of social services hours provided shall amount to not less than 20 hours of service per week.

iii. In shelter facilities with a capacity of 12 or fewer children, the administrator may serve as a part-time social service worker provided she or he possesses the qualification for the position.

§ 3A:53-3.6 Staff development and evaluation for shelter facilities

(a) The shelter facility shall have a written annual evaluation for each staff member.

(b) The shelter facility shall have continuing in-service training programs for all staff members. A record of such programs shall be kept on file.

(c) Upon employment, every staff member shall be instructed in all emergency procedures, administrative procedures and the shelter facility's service program.

(d) The shelter facility shall insure that every new staff member is accompanied on his or her duties by an experienced staff member(s) as part of an orientation program.

§ 3A:53-3.7 Governing body or citizens board for shelter facilities

(a) Every shelter facility shall have a governing body or citizens board which shall either:

1. Be responsible for and have authority over the policies and operation of the shelter facility; or

2. Provide advice and counsel to the shelter facility on the policies and operation of the shelter facility.

(b) A shelter facility member shall not serve as a voting member of the governing body or citizens board for that shelter facility.

(c) Every governing body or citizens board shall meet at least twice a year.

(d) The shelter facility shall keep on file a list of the current membership of the governing body or citizens board.

§ 3A:53-3.8 Criminal History Record Information background checks

(a) As a condition of securing and maintaining a certificate, the shelter facility or shelter home shall ensure that a State and Federal Criminal History Record Information (CHRI) fingerprint background check, in keeping with P.L. 2003, c.186, is completed for each shelter facility director, staff member, shelter home coordinator, shelter home parent, and shelter home household member at least 18 years of age.

(b) If the facility director, shelter home coordinator, shelter home parent, or shelter home household member refuses to consent to or cooperate in a CHRI background check, the Office shall deny, suspend, revoke, or refuse to renew the certificate, as applicable.

1. The shelter facility or shelter home may appeal the denial, suspension, revocation, or refusal to renew, pursuant to N.J.A.C. 3A:53-1.6.

2. The shelter home parent may choose to remove the household member so refusing from the shelter home before the action against the certificate takes effect.

(c) If a staff member refuses to consent to or cooperate in a CHRI background check, the shelter facility or shelter home shall immediately terminate the staff member's employment at the shelter facility or shelter home.

(d) If any person specified in (a) above has a record of criminal conviction, the Department of Children and Families shall review the record with respect to the type and date of the criminal offense and make a determination as to the suitability of the person to receive a certificate or to administer, work at, or reside in the shelter facility or shelter home, as applicable.

(e) A person shall be disqualified from receiving a certificate, administering, working at, or residing in a shelter facility or shelter home if that person ever committed a crime which resulted in a conviction for:

1. A crime against a child, including endangering the welfare of a child and child pornography pursuant to N.J.S.A. 2C:24-4, or child molestation, as set forth in N.J.S.A. 2C:14-1 et seq.;

2. Abuse, abandonment or neglect of a child pursuant to N.J.S.A. 9:6-3;

3. Endangering the welfare of an incompetent person pursuant to N.J.S.A. 2C:24-7;

4. Sexual assault, criminal sexual contact or lewdness pursuant to N.J.S.A. 2C:14-2 through 2C:14-4;

5. Murder pursuant to N.J.S.A. 2C:11-3 or manslaughter pursuant to N.J.S.A. 2C:11-4;

6. Stalking pursuant to section 1 of P.L. 1992, c.209 (N.J.S.A. 2C:12-10);

7. Kidnapping and related offenses including criminal restraint, false imprisonment, interference with custody, criminal coercion, or enticing a child into a motor vehicle, structure, or isolated area pursuant to N.J.S.A. 2C:13-1 through 2C:13-5 and section 1 of P.L. 1993, c.291 (N.J.S.A. 2C-13.6);

8. Arson pursuant to N.J.S.A. 2C:17-1, or causing or risking widespread injury or damage, which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:17-2;

9. Aggravated assault, which would constitute a crime of the second or third degree pursuant to subsection b of N.J.S.A. 2C:12-1;

10. Robbery, which would constitute a crime of the first degree pursuant to N.J.S.A. 2C:15-1;

11. Burglary, which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:18-2;

12. Domestic violence pursuant to P.L. 1991, c.261 (N.J.S.A. 2C:25-17 et seq.);

13. Terroristic threats pursuant to N.J.S.A. 2C:12-3;

14. An attempt or conspiracy to commit any of the crimes or offenses listed in (e)1 through 13 above; or

15. In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or offenses described in (e)1 through 14 above.

(f) As an exception to (e) above, the Department may approve the employment at or administration of a shelter facility or service at a shelter home by an individual convicted of a crime specified in (e) above if all of the following conditions are met:

1. The Department determines that the crime does not relate adversely to the position the individual is employed in, pursuant to the provisions of P.L. 1968, c.282, N.J.S.A. 2A:168A-1 et seq.;

2. The conviction is not related to a crime committed against a child, as specified in (e) above;

3. The shelter facility or shelter home documents that the individual's employment or administration of the shelter facility or shelter home does not create a risk to the safety or well-being of children due to the nature and requirements of the position. As necessary, the shelter facility or shelter home shall identify restrictions regarding the individual's contact with, care or supervision of children;

4. The shelter facility or shelter home documents that the individual is uniquely qualified for the position due to specific skills, qualifications, characteristics, or prior employment experiences; and

5. The Department determines that the individual has affirmatively demonstrated rehabilitation, pursuant to the factors specified in (g) below.

(g) For crimes and offenses other than those cited in (e) above, an individual may be eligible to receive a certificate or to administer, work at, or reside in a shelter facility or shelter home if the individual has affirmatively demonstrated to the Department clear and convincing evidence of rehabilitation.

1. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

i. The nature and responsibility of the position at the shelter facility or shelter home that the convicted individual would hold, has held, or currently holds, as the case may be;

ii. The nature and seriousness of the offense;

iii. The circumstances under which the offense occurred;

iv. The date of the offense;

v. The age of the individual when the offense was committed;

vi. Whether the offense was an isolated or repeated incident;

vii. Any social conditions that may have contributed to the offense; and

viii. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the individual under their supervision.

2. Upon receipt of documentation submitted by the shelter home or shelter facility, indicating why the individual at issue should not be precluded from administering, working, or residing at the shelter home or shelter facility, the Department, after assessing the facts on a case-by-case basis, shall make the final determination regarding the individual's rehabilitation, in keeping with the provisions of the State Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq.

3. The Department shall make the final determination regarding the suitability of a shelter facility director or shelter home coordinator with a criminal conviction other than those cited in (e) above.

4. For a current or prospective staff member, shelter home parent, or shelter home household member with a criminal conviction other than those cited in (e) above, the director of the shelter home or shelter facility or its board of directors shall make a determination regarding the individual's suitability upon the Department's determination that the individual has affirmatively demonstrated rehabilitation.

(h) If the facility director or shelter home coordinator has knowledge that any individual specified in (a) above has criminal charges pending against the individual, the facility director or shelter home coordinator shall promptly notify the Department to determine whether or not any action concerning the individual is necessary in order to ensure the safety of the children who are placed in the shelter facility or shelter home.

(i) If the Department is notified that any individual specified in (a) above is convicted of a crime or offense after the CHRI has been completed, the Department shall make a determination whether to suspend or revoke the certificate or require the shelter facility or shelter home to terminate the individual's employment or service, as applicable.

(j) Upon completion of the CHRI for an individual, the Department shall notify the individual, and the shelter facility or shelter home as applicable, in writing, of the individual's qualification or disqualification for employment or service under section 4 or 5 of P.L. 2003, c.186, N.J.S.A. 30:4C-27.19 or 30:4C-27.20.

1. If the individual is disqualified, the convictions that constitute the basis for the disqualification shall be identified in the written notice to the individual.

2. The individual shall have 14 days from the date of the written notice of disqualification to challenge the accuracy of the CHRI.

3. If no challenge is filed or if the determination of the accuracy of the CHRI upholds the disqualification, the Department shall notify the shelter facility or shelter home that the individual has been disqualified from employment or service.

4. The shelter facility or shelter home shall immediately terminate the disqualified individual's employment or service at the shelter facility or shelter home.

5. If the disqualified individual is a facility director, shelter home coordinator, shelter home parent, or shelter home household member, the Office shall deny, suspend, revoke, or refuse to renew the certificate, as applicable.

6. The shelter home parent may choose to remove the disqualified household member from the shelter home before the action against the certificate takes effect.

(k) A shelter facility or shelter home that has received an employment application from an individual, or currently employs an individual, shall be immune from liability for acting upon or disclosing information about the disqualification or termination of that individual to another shelter facility or shelter home seeking to employ that individual, if the shelter facility or shelter home has:

1. Received notice from the Department or the agency's board of directors, as applicable, that the individual has been determined by the Department or the board of directors to be disqualified from employment or service at a shelter facility or shelter home pursuant to P.L. 1968, c.282, N.J.S.A. 2A:168A-1 et seq.; or

2. Terminated the employment of a staff member because the individual was disqualified from employment or service at the shelter facility or shelter home on the basis of a conviction of a crime pursuant to P.L. 1968, c.282, N.J.S.A. 2A:168A-1 et seq., after commencing employment or service at the shelter facility or shelter home.

(l) A shelter facility or shelter home that acts upon or discloses information pursuant to (k) above shall be presumed to be acting in good faith unless it is shown by clear and convincing evidence that the shelter facility or shelter home acted with actual malice toward the individual who is the subject of the information.

§ 3A:53-3.9 Child Abuse Record Information background checks

(a) As a condition of securing and maintaining a certificate, the shelter facility or shelter home shall provide written consent to the Department from each shelter facility director, shelter facility or shelter home staff member, shelter home parent, and shelter home household member at least 18 years of age, for a Child Abuse Record Information (CARI) background check to be conducted.

(b) If a facility director, shelter home coordinator, shelter home parent, or shelter home household member refuses to consent to or cooperate in a CARI background check, the Office shall deny, suspend, revoke, or refuse to renew the certificate, as applicable.

1. The shelter facility or shelter home may appeal the denial, suspension, revocation, or refusal to renew, pursuant to N.J.A.C. 3A:53-1.6.

2. The shelter home parent may choose to remove the household member who refuses to consent from the shelter home before the action against the certificate takes effect.

(c) If a staff member refuses to consent to or cooperate in a CARI background check, the shelter facility or shelter home shall immediately terminate the staff member's employment at the shelter facility or shelter home.

(d) Upon receipt of written consent from an individual specified in (a) above, the Department shall conduct a search of its records to determine if an allegation of child abuse or neglect has been substantiated, pursuant to section 4 of P.L. 1971, c.437, N.J.S.A. 9:6-8.11, against the individual.

1. The Department shall consider incidents of child abuse and neglect that were substantiated on or after June 29, 1995, to ensure that the perpetrator has had an opportunity to appeal a substantiated finding of child abuse or neglect.

2. The Department may consider incidents substantiated prior to June 29, 1995, if the Department, in its judgment, determines that the perpetrator poses a risk of harm to children in a shelter home. In cases involving incidents substantiated prior to June 29, 1995, in which the Department determines that the individual is disqualified, the Department shall offer the perpetrator an opportunity for a hearing to contest the substantiation in accordance with N.J.A.C. 3A:5.

(e) If the Department determines that an allegation of child abuse or neglect has been substantiated against an individual specified in (a) above, the shelter facility or shelter home shall immediately terminate the individual's employment at the shelter facility or shelter home.

(f) If the Department determines that an allegation of child abuse or neglect has been substantiated against a facility director, shelter home coordinator, shelter home parent, or shelter home household member, the Division shall deny, suspend, revoke, or refuse to renew the certificate of approval, as applicable.

1. The shelter facility or shelter home may appeal the denial, suspension, revocation, or refusal to renew, as specified in N.J.A.C. 3A:53-1.6.

2. The shelter home parent may choose to remove the disqualified household member from the shelter home before the action against the certificate takes effect.

3. If the incident was substantiated prior to June 29, 1995, the Department shall notify the individual in writing that the individual may request a hearing to contest the substantiation.

(g) If the Department determines that an allegation of child abuse or neglect has been substantiated against a staff member, the shelter facility or shelter home shall notify the staff member in writing that the termination of employment is based on a substantiated allegation of child abuse or neglect. If the incident was substantiated prior to June 29, 1995, the shelter facility or shelter home shall notify the staff member in writing that the staff member may request a hearing to contest the substantiation.

§ 3A:53-3.10 Background check procedures for New Jersey shelter facilities and shelter homes

(a) Prior to the opening of a new shelter facility or shelter home located in New Jersey, the shelter facility or shelter home shall ensure that a request for a Criminal History Record Information (CHRI) background check, as specified in N.J.A.C. 3A:53-3.8, and a Child Abuse Record Information (CARI) background check, as specified in N.J.A.C. 3A:53-3.9, is submitted for all persons identified in N.J.A.C. 3A:53-3.8(a) and 3.9(a).

(b) Prior to the first renewal of a certificate on or after March 26, 2004, for an existing shelter facility or shelter home located in New Jersey, the shelter facility or shelter home shall ensure that a request for a CHRI background check, as specified in N.J.A.C. 3A:53-3.8, is submitted for all persons identified in N.J.A.C. 3A:53-3.8(a) and 3.9(a).

(c) Prior to each renewal of a certificate on or after March 26, 2004, for an existing shelter facility or shelter home located in New Jersey, the shelter facility or shelter home shall ensure that a request for a CARI background check, as specified in N.J.A.C. 3A:53-3.9, is submitted for all persons identified in N.J.A.C. 3A:53-3.8(a) and 3.9(a).

(d) Within two weeks after a new staff member begins employment at a shelter facility or shelter home or a new household member begins residing at a shelter home located in New Jersey, the shelter facility or shelter home shall ensure that a request for a CHRI background check, as specified in N.J.A.C. 3A:53-3.8, and a CARI background check, as specified in N.J.A.C. 3A:53-3.9, is submitted for the new staff member or household member.

(e) An individual shall not be left alone as the only adult caring for a child at the shelter facility or shelter home until documentation from the Department showing compliance with a CHRI check and CARI check for the individual has been received by the shelter facility or shelter home.

§ 3A:53-3.11 Background check procedures for out-of-State shelter facilities and shelter homes

(a) For a shelter facility or shelter home located outside New Jersey, the shelter facility or shelter home shall ensure that the director and each applicant, shelter facility or shelter home staff member, shelter home coordinator, shelter home parent, and shelter home household member meet all applicable laws and regulations in that state governing criminal history record background checks and child abuse record information checks that may be required as a condition of employment.

(b) In the event that criminal history record background checks and child abuse record information checks are not mandated in that state, the shelter facility or shelter home shall require that the director and each applicant, staff member, shelter home coordinator, shelter home parent, and shelter home household member make a disclosure of any criminal conviction. The results of the disclosure shall be made available to the Department, so that the Department can determine the suitability of the individual for certification, employment, or service at the shelter facility or shelter home during the time children who are residents of New Jersey are placed in the shelter facility or shelter home.

(a) The shelter facility or shelter home coordinator shall prepare and implement written procedures for medical and dental health services and psychological/psychiatric services, as needed, for all children in care.

(b) The shelter facility or shelter home shall have immediate access to the services of licensed physicians and nurses on a 24-hour, seven-days-a-week basis to insure that general health services are provided.

(c) Prescription medication shall be administered to a child by shelter facility staff members or shelter home parents only when authorized by a physician.

(d) When any medication is administered to a child at a shelter facility, an entry shall be made in a medication log book, which shall contain the following information:

1. Name of child receiving medication, whether prescription (including psychotropic medication) or non-prescription;

2. Type of medication, dosage and intervals between dosages;

3. Reason for medication;

4. Time medication was administered;

5. Signature and title of staff member dispensing medication; and

6. Name of authorizing physician for prescription medication. (e) When serious accidents or illnesses occur to a child, the shelter facility or shelter home parent shall take the necessary emergency action and the shelter facility or shelter home coordinator shall notify the parent(s) immediately.

(e) For children who are unable to provide for their own personal care and hygiene, the shelter facility or shelter home parent shall properly bathe, groom and provide other necessary health and personal hygiene services to meet their needs.

(f) The shelter facility or shelter home parent shall insure that the children receive training in good habits of personal care, hygiene, and grooming appropriate to their age and gender.

(g) The shelter facility or shelter home shall provide personal hygiene items for all children.

(h) The shelter facility shall insure that medical supplies, including prescription and non-prescription medication are kept under lock and key and all outdated stocks and prescriptions no longer in use shall be disposed of safely.

§ 3A:53-4.2 Clothing and personal belongings

(a) The shelter facility or shelter home coordinator shall insure that each child in care has adequate, clean, well-fitting and attractive clothing as required for health, comfort and physical well-being and as appropriate to age, gender, individual needs, community standards and season.

(b) The shelter facility or shelter home shall insure that each child's clothing is kept clean and in good repair.

(c) The shelter facility or shelter home shall insure that provisions are made for the protection of each child's personal property.

§ 3A:53-4.3 Food and nutrition requirements for shelter facilities and shelter homes

(a) The shelter facility or shelter home shall provide or arrange for the provision of three nutritious meals a day (breakfast, lunch, and dinner) and snacks from food that is selected, stored, prepared, and served in a sanitary and palatable manner.

(b) The shelter facility or shelter home shall not force-feed or otherwise coerce a child to eat against his or her will, except by order of a physician.

(c) Each meal shall contain a sufficient amount of food for every child; children shall be permitted to have additional serving(s), as needed.

(d) Individualized diets and feeding schedules that are submitted to the shelter facility or shelter home by the child's physician(s) shall be followed.

§ 3A:53-4.4 Rest, bedroom, and sleep

(a) Space requirements for shelter facilities:

1. Any bedroom containing a single bed occupied by one child shall provide a minimum of 70 square feet of floor space, including space that is occupied by furniture.

2. Any bedroom containing single beds and occupied by more than one child shall provide a minimum of 70 square feet of floor space for the first child and 50 square feet of floor space for each additional child, including space that is occupied by furniture.

3. Any bedroom containing bunk beds or any combination of single beds and bunk beds shall provide 50 square feet of floor space for each child, including space that is occupied by furniture.

4. In addition to the minimum square feet of floor space, as stated in (a)1 through 3 above, any bedroom shall not be less than seven feet in any dimension.

5. Any bedroom used by a child shall provide a minimum ceiling height of seven feet and six inches.

(b) General requirements for shelter facilities and shelter homes:

1. Every child shall be provided with a standard household bed or crib, as age appropriate, in sanitary condition.

2. Every set of bunk beds shall be limited to two in height.

3. Every bed or crib shall be equipped with a firm, sanitary washable mattress and waterproof mattress cover.

4. Every child shall be provided with sanitary bed linens that are changed weekly and a blanket or other suitable covering that is cleaned or replaced, as necessary.

5. Two or more children shall not share the same bed.

6. Children, other than infants, shall not share the same bedroom with an adult.

7. A child shall not sleep on the same bed or crib that another child has occupied unless the bed linen is changed.

8. Children five years of age or over shall occupy a bedroom only with a member(s) of the same gender.

9. Any bedroom occupied by children shall have natural light and ventilation provided by one or more windows opening directly to the exterior.

10. An unfinished attic or basement shall not be used for sleeping purposes.

11. All rooms used as bedrooms shall not be used for any other purpose.

12. Each child shall be provided with a chest of drawers or some other permanent arrangements for storage of clothing and other personal belongings, including closet space or the equivalent.

13. Children under the age of five years shall be provided with a separate sleeping room from children five years of age and older.

§ 3A:53-4.5 Education

(a) The shelter facility or shelter home shall insure that each school-age child in care for two weeks or longer receives a minimum educational program provided by the child's school district of residence, pursuant to N.J.S.A. 18A:38-1 et seq.

(b) The shelter facility administrator shall enforce each child's right to perceive an appropriate free education, in accordance with State education law.

(c) The shelter home coordinator shall insure that each school-age child in a shelter home receives a minimum educational program to which each child is entitled, pursuant to N.J.S.A. 30:4C-26(c) and N.J.S.A. 18A:7B-12(a).

(d) The shelter facility administrator or shelter home coordinator shall seek to have each school-age child who has been admitted to the shelter facility or shelter home returned to classroom instruction in a public school. If such return is not possible or feasible in the judgement of the shelter facility administrator or shelter home coordinator, application shall be made to the chief school administrator of the child's school district of residence for the provision of home instruction for the child at the shelter facility or shelter home, in accordance with State education law and regulations.

(e) The shelter facility administrator or shelter home coordinator shall document in writing and maintain on file efforts taken to insure that each school-age child receives a minimum educational program, in accordance with State education law and regulations.

(f) For children who are not attending school, the shelter facility administrator or shelter home coordinator shall insure that supervision and alternate programming/activities are provided during school hours.

§ 3A:53-4.6 Social services requirements for shelter facilities

(a) The shelter facility shall have a social services program that includes such services as:

1. Individual and/or group counseling;

2. Coordination of contacts between the child and his or her family; and

3. Liaison services with community provider agencies.

(b) If a child remains in the shelter facility for more than 45 days, the shelter facility shall develop a case management plan. Once developed, the case management plan shall be reviewed or revised 60 days thereafter.

§ 3A:53-4.7 Recreation

(a) The shelter facility shall provide a balanced recreational program, including athletics, social and leisure time activities and shall keep on file a written monthly schedule of recreational activities.

(b) The shelter facility or shelter home shall provide indoor and outdoor space to enable the children to participate in recreational/physical exercise.

(c) The shelter facility shall contain living or recreation rooms for the informal use of the children and their guests.

§ 3A:53-4.8 Religion requirements for shelter facilities and shelter homes

(a) Every child shall be afforded the opportunity to participate in religious activities and services in accordance with his or her own faith or with that of his or her parent(s).

(b) Every child shall be permitted to attend religious activities and services in the community.

(c) The shelter facility or shelter home shall arrange for or directly provide transportation for any child who wishes to attend religious activities and services.

(d) The shelter facility or shelter home shall not coerce or require children to participate in religious activities but may encourage them to do so.

§ 3A:53-4.9 Work and employment

(a) Children shall not be responsible for duties assigned to staff members but may be required to perform work assignments in the shelter facility that have an instructive value, including such tasks as normal household chores. However, work assignments shall not interfere with regularly scheduled program activities.

(b) Children shall be allowed to hold part-time employment outside the shelter facility or shelter home, provided that the work shall not interfere with regularly scheduled program activities or school program.

§ 3A:53-4.10 Routines and house rules for shelter facilities

The shelter facility shall prepare and post in a location of prominence within the building a listing of rules governing the routines of daily living in the shelter facility.

§ 3A:53-4.11 Restrictive behavior management practices

Shelters that choose to utilize restrictive behavior management practices shall do so in accordance with the rules and restrictions specified at N.J.A.C. 3A:56-6.13. Notifications in accordance with N.J.A.C. 3A:56-6.13(g) are required within 72 hours of each utilization of restrictive behavior management practices.

§ 3A:53-4.12 Discipline and control

(a) The shelter facility or shelter home shall have written policies and procedures regarding discipline and control, which shall be maintained on file, explained, and be made available in writing to all children, parent(s), and staff members.

(b) The discipline, control, or supervision of the children in a shelter facility or shelter home shall be the responsibility of the staff members or shelter home parents and that responsibility shall not be delegated to the children.

(c) Disciplinary practice of shelter facility staff members or shelter home parents shall be designed to assist the children in developing self-control and an ability to conform to accepted levels of social behavior.

(d) Shelter facilities or shelter homes that use time out as a means of disciplining children and to teach them self-control shall:

1. Develop written guidelines and criteria for staff members using time out with children;

2. Discontinue the time out as soon as the child is under instructional control;

3. Ensure that the length of time for each time out does not exceed 30 minutes; and

4. Ensure that the time out does not take place in a closet, bathroom, unfinished basement, unfinished attic, stairway, locked room, or other area not intended or routinely used for occupancy by children.

(e) A child's rights in a shelter facility or shelter home shall never be removed or discontinued for purposes of discipline, control, or punishment; however, the deprivation of a child's privileges may be used as a disciplinary technique.

(f) The shelter facility or shelter home coordinator shall prohibit the following types of punishment:

1. Any type or threat of physical hitting or any type of corporal punishment inflicted in any manner upon the body;

2. Forced physical exercise or forcing a child to take an uncomfortable position;

3. Group punishment for misbehaviors of individuals;

4. Punishment that subjects the child to verbal abuse, ridicule, humiliation or other forms of degradation;

5. Deprivation of meals, sleep, mail, clothing appropriate to the season or time of day, verbal communication, family visits, or other basic rights;

6. Mechanical, chemical, or excessive physical restraint;

7. Assignment of unduly physically strenuous, harsh work;

8. Refusal of entry to the shelter facility or shelter home;

9. Temporary suspension and return of a child from the shelter facility or shelter home to a parent, relative, or resource family parent unless approved by the placing agency; or

10. Seclusion in a locked room.

(g) A shelter facility shall not isolate a child in a behavior management room.

§ 3A:53-4.13 Visitation

(a) The shelter facility shall establish regular visiting hours for approved visitors. In addition, the shelter facility shall make provision for visitation for approved visitors unable to visit during the regular visiting hours.

(b) The shelter facility shall provide conditions of reasonable privacy for visits between the children and other visitors.

(c) The shelter facility shall maintain on file a listing of approved visitors for each child. Only persons authorized by the parent(s) or agency legally responsible for the child shall be permitted to visit the child.

(d) The shelter home coordinator shall establish and implement procedures for the visitation of children residing in shelter homes. Such procedures shall insure an opportunity for regular visits between children and their families and other visitors.

§ 3A:53-4.14 Mail and telephone communications

(a) There shall be no restriction on the amount of mail a child at the shelter facility or shelter home is permitted to send or receive.

(b) Incoming and outgoing mail for or from any child at the shelter facility or shelter home shall not be withheld or read by any shelter facility staff member or shelter home parent.

(c) A shelter facility staff member may open parcels and letters only if she or he suspects that the contents contain contraband and then only in the presence of the child sending or receiving the parcel or letter and another staff member. A record shall be maintained in the child's file documenting the specific reason why such mail was opened and the results. The record shall be dated and signed by the shelter facility administrator or his or her designate.

(d) Each child in the shelter facility or shelter home shall receive a reasonable postage allowance and writing materials for correspondence.

(e) A telephone shall be made available for use by the children in the shelter facility or shelter home.

(f) Each child in a shelter facility or shelter home shall be permitted to make and receive a reasonable number of telephone calls.

(g) Telephone calls made or received by a child shall not be monitored.

§ 3A:53-4.15 Firearms/weapons prohibition

(a) The shelter facility shall not maintain any firearm, chemical or other weapon within or on the grounds of the shelter facility.

(b) The shelter facility shall prohibit any staff member or child to possess any firearm, chemical or other weapon within or on the grounds of the shelter facility.

(c) Any firearm, chemical or other weapon maintained in the shelter home shall be locked and stored in a location inaccessible to the children in care.

§ 3A:53-4.16 Search and seizure requirements for shelter facilities and shelter homes

(a) Shelter facilities and shelter homes may conduct searches for weapons or contraband, provided that they maintain on file in the shelter facility or shelter home written policies and procedures that are consistent with the requirements of this chapter.

1. The shelter facility or shelter home shall define contraband to include illegal drugs, unauthorized property, stolen property, or items otherwise obtained illegally.

2. The shelter facility or shelter home shall explain the policy and distribute copies of the written policy to children and their parents upon admission.

3. The shelter facility or shelter home shall specify the actions that it will take when weapons or contraband are found.

(b) Search procedure for a weapon(s):

1. A shelter facility staff member or shelter home parent shall be permitted to frisk search (surface search of outer clothing) a child only when there is reasonable suspicion that the child is in possession of a weapon(s).

2. A shelter facility staff member or shelter home parent shall be prohibited from reaching into a child's pockets unless the frisk search indicates that there is reasonable belief that the child is in possession of a weapon(s).

3. The shelter facility or shelter home shall complete and keep on file an incident/accident report for every incident involving the frisk searching of a child.

(c) Search procedure for illegal drugs or contraband:

1. A shelter facility staff member or shelter home parent shall be prohibited from frisk searching a child who is suspected of possessing illegal drugs or contraband.

2. A shelter facility staff member or shelter home parent who has reasonable suspicion that a child is in possession of illegal drugs or contraband shall request that the child voluntarily empty a garment pocket(s), a bag, a purse, or other such items within a child's possession or control. If the child complies with the request, the shelter facility staff member or shelter home parent shall inspect all items that are in plain view while in the presence of a second staff member or shelter home parent. The staff member or shelter home parent shall be prohibited from conducting an exploratory search of another garment pocket(s) or other compartment(s) of a bag or a purse without the voluntary permission of the child.

3. If a child refuses a voluntary request to empty a garment pocket(s), a bag, a purse, or other such item, the shelter facility staff member or shelter home parent shall summon a law enforcement officer to conduct a lawful search of the child.

(d) A shelter facility staff member or shelter home parent shall be prohibited from strip searching a child for any reason.

(e) If a shelter facility or shelter home has reasonable suspicion that a child's room or other possessions not within a child's immediate possession or control, contain contraband, stolen property, or weapons, the shelter facility staff or shelter home parent may conduct an unannounced search if:

1. The shelter facility staff or shelter home parent explains and documents this practice to the child and his or her parents;

2. The search is conducted in the presence of two staff members or shelter home parents, one of whom has supervisory or administrative responsibility; and

3. The shelter facility or shelter home shall allow the child, if the child is present in the shelter at the time of a search, an opportunity to observe the search. If the child declines the opportunity, the staff members may conduct the search in the child's absence.

(f) When unannounced room searches occur, pursuant to (e) above, the shelter facility or shelter home shall verify which child is responsible for any weapon or contraband brought into the shelter facility before imposing a disciplinary action or sanction on the child.

§ 3A:53-5.1 Local government physical facility requirements for shelter facilities and shelter homes

(a) An applicant seeking an initial approval, as specified in N.J.A.C. 3A:53-1.5, to operate a shelter facility or shelter home shall comply with all applicable provisions of the New Jersey Uniform Construction Code, as specified in N.J.A.C. 5:23 and hereinafter referred to as the NJUCC.

1. For newly constructed buildings, for existing buildings whose construction code use group classification would change from that which it had been, or for existing buildings that require major alteration or renovation, the shelter facility or shelter home shall submit to the Office a copy of a Certificate of Occupancy (CO) issued by the municipality in which it is located, reflecting the shelter facility's or shelter home's compliance with the appropriate use group classification provisions of the NJUCC.

2. For shelter facilities or shelter homes that are planning to construct a new building, the shelter facility or shelter home shall submit to the Office:

i. Preliminary architectural drawings for review and comment prior to beginning construction; and

ii. If applicable, revised architectural or final drawings containing all required items listed in the preliminary plan review for final approval as in compliance with this chapter from the Office before the shelter facility or shelter home can open.

3. For buildings constructed after the adoption of the NJUCC (1977) and that have not had major alterations or renovations since receipt of the CO, the shelter facility or shelter home shall obtain the CO that reflects the appropriate use group classification issued by the municipality in which it is located at the time the building was originally constructed or approved. This shelter facility or shelter home shall submit a copy of the building's CO to the Office.

4. For existing buildings, whose use prior to the adoption of the NJUCC (before 1977) was and continues to be for a shelter facility or shelter home and that have not had major alterations or renovations, the shelter facility or shelter home shall obtain a Certificate of Continued Occupancy (CCO) or a letter to this effect, issued by the municipality in which it is located, reflecting the building's compliance with provisions of the municipality's construction code requirements that were in effect at the time it was originally constructed or converted for use as a shelter facility or shelter home. The shelter facility or shelter home shall submit a copy of the building's CCO or letter reflecting the building's compliance to the Office.

5. The shelter facility or shelter home shall obtain a new CO or CCO issued by the municipality in which it is located, reflecting the building's compliance with provisions of the applicable NJUCC use group classification, and submit a copy of the new CO or CCO to the Office whenever it takes any of the following actions:

i. Changes the building's use group classification to one other than the one prescribed on its original CO;

ii. Makes a major alteration or renovation, as defined by the NJUCC, of the building or premises where the shelter facility or shelter home is located;

iii. Increases the floor area or the number of stories to the building or premises where the shelter facility or shelter home is located; or

iv. Relocates to another site.

6. Whenever a municipality grants a shelter facility or shelter home a written variation from any of the requirements of the NJUCC, the Office of Licensing may accept such variations as meeting the requirements of this chapter.

i. When the Office does not accept the variation, the non-acceptance shall be based on the best interests of the residents of the shelter, and shall include consideration for their health and safety.

ii. Should the shelter facility or shelter home disagree with the Office, the shelter facility or shelter home may seek a hearing in accordance with N.J.A.C. 3A:53-1.6 and the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1, as implemented by the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) An applicant seeking an initial approval, as specified in N.J.A.C. 3A:53-1.5, to operate a shelter facility or shelter home shall comply with all applicable provisions of the New Jersey Uniform Fire Code, as specified in N.J.A.C. 5:70 and hereinafter referred to as the NJUFC. The shelter facility shall obtain the building's fire safety inspection certificate issued by the municipality in which it is located, based on a fire inspection conducted within the preceding 12 months, reflecting the shelter facility's compliance with all applicable provisions of the NJUFC. The shelter facility shall submit a copy of the building's fire safety inspection certificate to the Office.

(c) An applicant seeking an initial approval, as specified in N.J.A.C. 3A:53-1.5, to operate a shelter facility or shelter home shall comply with all applicable provisions of the State Sanitary Code, as specified in N.J.A.C. 8:24. The shelter facility or shelter home shall obtain a certificate or statement of satisfactory health approval issued by the applicable municipal, county, or State health agency, based on a health inspection conducted within the preceding 12 months, certifying that the shelter facility or shelter home complies with applicable provisions of local, county, and State health codes and poses no health hazard to the children served. The shelter facility or shelter home shall submit a copy of the certificate or statement of satisfactory health approval to the Office.

(d) An applicant seeking the renewal of a certificate of approval to continue operating a shelter facility or shelter home shall obtain and submit to the Office, copies of:

1. A current fire safety inspection certificate for the building; and

2. A current certificate or statement of satisfactory health approval for the shelter facility.

§ 3A:53-5.2 State government physical facility requirements for shelter facilities

(a) All shelter facilities shall be inspected by the Office prior to receipt of an initial and/or subsequent approval to insure that the building has been maintained in accordance with the requirements specified in (b) through (q) below.

(b) Shelter facilities shall be classified according to the type of construction designated by the UCC.

(c) Limitations on the use of upper and lower levels:

1. Non-ambulatory children shall not have bedrooms above or below the first floor.

2. In NJUCC-designated buildings of Type 4 and Type 5A construction, children shall not be permitted above the third floor unless the building meets all the applicable provisions of the New Jersey Uniform Fire Code (NJUFC) and the NJUCC.

3. In NJUCC-designated buildings of Type 5B construction, children shall not be permitted above the second floor unless the building meets all the applicable provisions of the NJUFC and the NJUCC.

(d) Exit requirements:

1. Shelter facility exits shall be maintained in proper operating condition and comply with all the applicable provisions in the NJUCC and the NJUFC.

2. Doors:

i. Shelter facility doors shall be maintained in proper operating condition and comply with all the applicable provisions in the NJUCC and the NJUFC.

3. Doors used for exits shall:

i. Be unobstructed;

ii. Be unlocked from the inside of the building while children are at the shelter facility; and

iii. Swing outward when serving an occupant load of more than 50.

4. Bathroom and closet doors may be locked; however, locked doors shall be designed to permit opening from the outside and inside in case of emergency.

5. Stairways:

i. Stairways used for exits shall be unobstructed.

6. Interior stairways:

i. The maximum height of risers shall be seven inches, and the minimum width of tread shall be nine inches.

ii. Winding staircases shall not be counted for purposes of meeting the exit requirements of this chapter.

iii. A space below a stairway shall be enclosed with a one hour fire-rated material.

7. Exterior stairways:

i. Exterior stairways conforming to the interior stairway requirements, as noted in (d)3ii above, shall be acceptable as required exits in shelter facilities not exceeding five stories in height.

ii. Exterior stairways shall be constructed of noncombustible materials or of wood not less than two inches thick.

8. Handrails and guardrails shall comply with all the applicable provisions contained in the NJUCC and the NJUFC.

9. Special requirements for shelter facilities serving nonambulatory children: The following special requirements shall be met by shelter facilities serving nonambulatory children:

i. A sufficient number of doors, corridors, ramps or walkways and landings shall be provided and be wide enough to permit their being used by children utilizing wheelchairs, braces, walkers or any other prosthetic equipment or devices.

ii. Ramps shall have a grade not greater than the equipment of one foot rise for every 12 feet of length. Handrails shall be provided on both sides of the ramps.

iii. Shelter facilities serving primarily children with physical limitations or handicaps or having a unit serving such children shall comply with the New Jersey Barrier Free Subcode (N.J.A.C. 5:23-7).

(e) Shelter facilities shall ensure that fire protection requirements, including those for boiler and furnace separation, electrical fire alarm systems, emergency lighting, and exit signs conform to all applicable provisions of the NJUFC and NJUCC.

(f) All glass surfaces that are not safety glass and that are located in areas where there may be possible impact by the children shall have a protective guard.

(g) Electricity:

1. All electrical wiring and equipment shall comply with local or municipal requirements in effect at the time the structure first became a shelter facility and shall be maintained in operating condition.

2. Any new equipment and wiring installed in the shelter facility shall be in compliance with the Electrical Subcode of the UCC.

3. Upon request, the shelter facility shall provide the Office with a copy of an electrical inspection report based on an inspection conducted within the preceding 12 months. This report shall confirm that the electrical system is adequate and in compliance with the Electrical Subcode of the UCC.

4. Inspections as noted in (g)3 above, shall be performed by the local electrical subcode official, an approved service organization or a licensed electrical contractor.

(h) Lighting:

1. General requirements:

i. Natural or artificial light shall be provided in all areas;

ii. In classroom or study areas, there shall be at least 20 foot candles of light (artificial or natural). This illumination shall be measured three feet above the floor at the farthest point from the light source;

iii. Parking areas, pedestrian walkways or other exterior portions of the premises subject to use by occupants at night shall be illuminated.

2. Buildings having a capacity of greater than 12 children shall provide:

i. Illuminated exit signs; and

ii. An emergency lighting system for exit signs, stairways and corridors. This emergency lighting system shall be provided by emergency battery packs or an auxiliary generator and shall be kept in good working condition.

(i) Heating:

1. A minimum temperature of 65 degrees Fahrenheit shall be maintained in all rooms used by the children.

(j) Shelter facilities shall ensure that ventilation requirements conform to all applicable provisions of the NJUCC and the NJUFC.

(k) Plumbing:

1. All plumbing shall be in compliance with the provisions of the Plumbing Subcode of the UCC.

2. All plumbing shall be maintained in good operating and sanitary condition.

3. The temperature of tap water shall not exceed 110 degrees Fahrenheit.

(l) Bathroom and toilet facilities:

1. The shelter facility shall have at least one toilet, wash basin, and bathtub or shower for every six children above the age of two and one half years. These facilities shall not be located more than one floor from any bedroom or living area.

2. The handwashing facilities shall be located in or adjoining the toilet area.

3. All bathrooms shall include hot and cold running water, and a non-slip surface in the shower or bathtub.

4. Toilet accessories shall be provided in all bathroom and toilet facilities.

5. Mirrors, paper towel and toilet paper dispensers and other equipment shall be fastened securely.

(m) The shelter facility's kitchen and food preparation area shall meet the following requirements:

1. The cooking and kitchen facilities and equipment shall be kept clean and sanitary and be in compliance with provisions of the State Sanitary Code (N.J.A.C. 8:24).

2. The kitchen and food preparation areas shall be separate from areas used for any other purpose.

3. If the occupancy of the building is more than 12 children, or if commercial cooking equipment is used, the kitchen shall be separated by a one hour fire-rated enclosure that is equipped with a C-label (three quarter hour) fire-rated door with a self-closing device and positive latching.

(n) Any swimming areas used by children shall comply with the requirements pertaining to swimming areas, as specified in the New Jersey Youth Camp Safety Act Standards, N.J.A.C. 8:25-9.1.

(o) Asbestos:

1. Coatings containing asbestos shall not be sprayed on any interior or exterior surfaces of a building used as a shelter facility or on any equipment used therein, in accordance with regulations of the State Department of Environmental Protection, as specified in N.J.A.C. 7:27-17.2.

2. If sprayed-on asbestos-containing materials appear to be present in a shelter facility, the shelter facility shall have the material tested, through laboratory analysis, to determine the contents of the material. When test results reveal the presence of sprayed-on asbestos-containing materials, the shelter facility shall insure that it is removed from the building structures and premises, in a manner consistent with all Federal, State and local regulations and guidelines concerning asbestos removal.

(p) Maintenance and sanitation:

1. General: The indoor and outdoor areas of the shelter facility shall be maintained in a safe and sanitary manner and free from any hazards to the health and safety of the children.

2. Indoor maintenance and sanitation requirements:

i. Basements, cellars and crawl spaces shall be free of moisture resulting from water leaks or seepage.

ii. Floors, walls, ceilings and other surfaces shall be kept clean and in good repair. These areas shall be covered or treated when necessary, and no paint containing lead shall be used.

iii. Stairways shall be free of hazards such as toys, boxes, loose steps, uneven treads, torn carpeting, raised strips or risers that are not uniform.

iv. Garbage shall be removed from the interior of the building on a daily basis.

v. Receptacles for food waste disposal shall be noncorrosive, impervious, lined, leak proof and provided with tight fitting covers.

vi. The shelter facility shall arrange for an exterminator to take necessary action to protect the building from rodent, insect and related infestations. Such treatment shall be provided not less than once a year, and more frequently when there is evidence of infestation.

3. Outdoor maintenance and sanitation requirements:

i. The land, including the outdoor play area, shall be properly graded and provided with drains to dispose of surface water.

ii. The shelter facility shall fence or otherwise enclose with a natural barrier outdoor areas on its grounds that are within, adjacent to or near potential safety hazards, including, but not limited to, steep grades, cliffs, open pits, swimming pools, high voltage boosters, high speed roads or propane gas tanks.

iii. The building structure shall be maintained to prevent water from entering, excessive drafts or heat loss during inclement weather, and to provide protection against infestation from rodents, insects, etc.

iv. Railings of balconies, landings, porches or stairs shall be maintained in safe condition.

v. The shelter facility shall have non-corrosive garbage receptacles to accommodate its waste disposal needs located in an outdoor area and maintained in a sanitary manner.

(q) Shelter facilities caring for children six years of age or younger shall comply with the following lead paint standards:

1. Lead paint shall not be used on and shall be removed by the shelter facility from any interior or exterior surfaces, furniture, toys or other equipment used therein, in accordance with the provisions of Chapter 13 of the State Sanitary Code (N.J.A.C. 8:51-7.1 through 7.5).

2. When lead paint is found in areas of a shelter facility not specified under N.J.A.C. 8:51-7.1 through 7.5, the Office shall determine whether the lead paint is hazardous to the health, safety, and well-being of the children served and, if considered to be hazardous, the shelter facility shall remove the lead paint hazard.

§ 3A:53-5.3 State government physical facility requirements for shelter homes

(a) Fire protection:

1. The shelter home shall provide a minimum of one smoke detector that shall be installed in a manner and location approved by the Office or local fire official.

2. The shelter home with a basement shall provide an additional smoke detector for the basement area.

3. The shelter home shall ensure that all fire extinguishers are serviced and tagged at least once a year and recharged, if necessary.

4. Combustible and flammable materials shall not be located adjacent to or near a furnace.

(b) Heating: The shelter home shall provide a minimum temperature of 65 degrees Fahrenheit in all rooms used by the children.

(c) Maintenance and sanitation: The indoor and outdoor areas of the shelter home shall be maintained in a safe and sanitary manner and be free from any hazards to the health and safety of the children.

§ 3A:53-5.4 Life-safety requirements for shelter facilities and shelter homes

(a) Emergency information: the shelter facility or shelter home shall post in a prominent location written emergency information, including the following:

1. The location of the first aid kit and any additional first aid supplies;

2. The name, address, and telephone number of the physician retained by the shelter facility or shelter home or of the health facility to be used in emergency situations;

3. The hospital or clinic to which injured or ill children are to be taken;

4. The telephone numbers of the police and fire department and the local ambulance service(s);

5. The telephone number of the New Jersey Child Abuse Hotline - 1-877-NJ ABUSE (1-877-652-2873); and

6. The location of written authorization from parent(s) for medical care for each child.

(b) In addition to (a) above, a shelter facility shall post an evacuation plan, including a diagram of the building and a description of how the shelter facility is to be evacuated in case of emergency.

(c) First aid equipment: First aid equipment shall be located in a convenient, accessible location in the shelter facility or shelter home and shall include:

1. A standard first aid kit recommended by the American Red Cross or the local or State health departments; and

2. The Red Cross First Aid Manual or its equivalent.

(d) Fire/evacuation drill and training:

1. The shelter facility shall conduct fire/evacuation drills at least twice monthly to familiarize the staff members and children with the procedures for leaving the building in an emergency situation.

2. The shelter facility shall maintain a record of each fire/evacuation drill. The record shall include:

i. The date and time of day of the drill;

ii. The number of children and staff members who participated; and

iii. The total amount of time necessary to evacuate the shelter facility.

3. The shelter facility staff members shall be trained in the use and operation of fire extinguishers.

(e) Shelter facilities and shelter homes caring for children six years of age and under shall comply with the following:

1. Fireplaces, open face heaters, stoves, hot radiators, electrical outlets and hazardous windows in rooms used by the children shall be adequately protected by screens or guards.

2. All corrosive agents, insecticides, bleaches, detergents, polishes, any products under pressure in an aerosol spray can and any other toxic (poisonous) substance, shall be stored in a locked cabinet or in an enclosure located in an area not accessible to the children.

§ 3A:53-5.5 Supplemental requirement

In addition to the requirements, as specified in N.J.A.C. 3A:53-5.1 through 5.4, the Office shall also require shelter facilities and shelter homes to take whatever additional steps that it deems are necessary to correct any conditions in the shelter facility or shelter home that may endanger in any way the health, safety, or well-being of the children served.

§ 3A:53-6.1 Vehicle requirements

(a) Vehicles used for transportation of children shall be in conformity with State motor vehicle law(s) and rules.

(b) Vehicles used for transportation of children to or from school, school-connected activity, day camp, summer day camp, nursery school, child care center or pre-school center shall meet the vehicle requirements for such vehicles.

(c) Vehicles used for transportation of children shall be maintained in safe operating condition and shall be properly registered and have a currently valid inspection sticker issued by the New Jersey Division of Motor Vehicles.

§ 3A:53-6.2 Driver requirements

(a) The driver of a vehicle used for the purpose of transporting children shall possess a valid driver's license for that type of vehicle.

(b) The driver shall not transport more persons, including children and adults, than the capacity of the vehicle.

§ 3A:53-6.3 Safety practices

(a) Children shall never be left unattended in a vehicle.

(b) Children shall be loaded and unloaded from the curbside of the vehicle.

(c) The interior of each vehicle shall be maintained in a clean, safe condition with clear passage to operable doors.

(d) Child passenger restraint systems shall be used as required by N.J.S.A. 39:3-76.

(e) There shall be no standees in any vehicle transporting children.

(f) When transporting more than six children under six years of age, there shall be one adult in addition to the driver in the vehicle at all times.

§ 3A:53-6.4 Transportation records

(a) The shelter facility or shelter home shall keep on file the name of each driver and a photostatic copy of his or her valid driver's license.

(b) These records shall be available upon request to any authorized representative of the Office.

§ 3A:53-6.5 Insurance

(a) The shelter facility or shelter home shall maintain liability insurance for bodily injury or death in minimum amounts of $ 300,000 per person and $ 500,000 per accident.

(b) If transportation services are provided by a private individual or from under contract or other arrangement, the shelter facility or shelter home shall maintain a file copy of the individual's or firm's insurance coverage in the amounts specified in (a) above and make a copy of such coverage available to the Office upon request.

§ 3A:53-6.6 Special regulations

(a) The following shall be required for shelter facilities and shelter homes serving handicapped, non-ambulatory children:

1. A ramp device shall be provided to permit entry and exit of a child from the vehicle. A hydraulic lift may be utilized provided that a ramp is also available in case of emergency.

2. Wheelchairs shall be securely fastened to the floor of the vehicle.

3. The arrangement of the wheelchairs shall provide an adequate aisle space and shall not impede access to the exit door of the vehicle.

Title 3A, Chapter 54 -- Manual of Requirements for Family Child Care Registration

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 30:5B-16 et seq.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2017 d.046, effective February 21, 2017.

See: 48 N.J.R. 2014(a), 49 N.J.R. 531(a).

Chapter 54, Manual of Requirements for Family Child Care Registration, was readopted as R.2017 d.046, effective February 21, 2017.

§ 3A:54-1.1 Legal authority

(a) This chapter is promulgated pursuant to the Family Day Care Provider Registration Act of 1987, N.J.S.A. 30:5B-16 et seq. (P.L. 1987, Chapter 27), which became effective April 27, 1987.

(b) Under N.J.S.A. 30:5B-16 et seq., the Department of Children and Families has the authority to:

1. Adopt regulations for the:

i. Operation and maintenance of family child care sponsoring organizations; and

ii. Voluntary registration of family child care providers; and

2. Contract with certain agencies or organizations to serve as sponsoring organizations for the voluntary registration of family child care providers.

(c) Responsibility for ensuring that a sponsoring organization complies with all applicable provisions of N.J.S.A. 30:5B-16 et seq., and of this chapter is delegated by the Department to the Office of Licensing, which shall:

1. Inspect and monitor the sponsoring organization to determine compliance with applicable provisions of this chapter;

2. Conduct random inspections of family child care homes to ensure compliance with applicable provisions of this chapter; and

3. Provide technical assistance to the sponsoring organization.

(d) A sponsoring organization is authorized to:

1. Register family child care provider applicants within a specific geographic area. A geographic area may include:

i. A single county; or

ii. A group of several counties;

2. Issue new and renewal Certificates of Registration to family child care providers;

3. Provide administrative services, including but not limited to technical assistance, training and consultation to providers;

4. Evaluate and monitor providers at least once every two years;

5. Annually monitor no less than 20 percent of providers specified in (d)4 above on a random basis in addition to their evaluation and monitoring every two years;

6. Collect a $ 25.00 registration fee payable to the sponsoring organization each time a Certificate of Registration is initially granted or renewed;

7. Maintain permanent records on each provider;

8. Ensure that each provider complies with all applicable requirements of N.J.A.C. 3A:54, the Manual of Requirements for Family Child Care Registration; and

9. Provide a program of outreach and public relations to inform providers and potential providers of the provisions of this chapter.

§ 3A:54-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Alternate provider" means a person who shares child care responsibilities with a registered provider at the provider's residence and meets all applicable requirements, as specified in N.J.A.C. 3A:54-5 and 6.

"Approved caregiver" means a person at least 18 years of age who has met all applicable requirements for a substitute provider or an alternate provider, as specified in N.J.A.C. 3A:54-5 and 6.

"Certificate of Registration" means a document issued by a sponsoring organization to a family child care provider, acknowledging that the provider is in compliance with all applicable provisions of this chapter.

"Chapter" means the rules contained in the Manual of Requirements for Family Child Care Registration, as specified in N.J.A.C. 3A:54, which reflect provisions that constitute minimum baseline requirements below which no family child care sponsoring organization or registered family child care provider that is subject to the authority of N.J.S.A. 30:5B-16 et seq. is legally permitted to operate.

"Child" means any person under 13 years of age.

"Denial of a Certificate of Registration" means a refusal by the sponsoring organization to issue an initial Certificate of Registration.

"Department" means the New Jersey Department of Children and Families.

"Developmentally appropriate" means an approach to caregiving that considers the cognitive, physical, and emotional needs of a child, in addition to the child's age.

"Distance learning" means education that takes place via electronic or digital media linking instructors and students who are not together in a classroom.

"Division" means the Division of Child Protection and Permanency, in the New Jersey Department of Children and Families.

"Evaluate" or "evaluation" means the review of a family child care provider by a sponsoring organization upon receipt of an application for a Certificate of Registration to determine the applicant's compliance with the requirements of this chapter.

"Family child care home" means the private residence of the family child care provider in which child care services are provided to no fewer than three and no more than five children at any one time for no fewer than 15 hours per week, except that the Department shall not exclude a family child care home with fewer than three children from voluntary registration.

"Family child care provider applicant" or "provider applicant" or "applicant" means a person at least 18 years of age who has applied for a Certificate of Registration.

"Family child care provider" or "registered family child care provider" or "provider" means a person who has received an initial, renewal or temporary Certificate of Registration issued by a sponsoring organization.

"Family child care sponsoring organization" or "sponsoring organization" means an agency or organization that contracts with the Department of Human Services to assist in the voluntary registration of family child care providers and that complies with all applicable requirements of the Manual of Requirements for Family Child Care Registration.

"Health care provider" means a physician, nurse practitioner, physician's assistant or other health care professional who is licensed or otherwise authorized by the state in which he or she practices to perform the applicable health care services specified in this manual.

"Household member" means an individual at least 14 years of age who resides in the home of a registered family child care provider or applicant for registration.

"Lockdown" means occupants of the home are directed to remain confined to a room or area with specific procedures to follow regarding locking of doors, closing of windows, and shades, seeking cover, etc. This procedure is implemented when a criminal element is believed to be on the premises and officials expect that these measures will minimize the risk of exposure of the occupants to the criminal element.

"Manual of Requirements for Family Child Care Registration" or "Manual of Requirements" means the requirements contained in this chapter (N.J.A.C. 3A:54).

"Monitor" or "monitoring inspection" means to inspect a registered family child care provider to review the provider's compliance with the applicable requirements of the Manual of Requirements.

"Night time care" means child care provided in the evening or overnight between the hours of 8:00 P.M. and 6:00 A.M.

"Office of Licensing" or "Office" means the Office of Licensing in the Department of Children and Families.

"Parent" means a natural, foster or adoptive parent, guardian, or any person with responsibility for, or custody of, a child.

"Provider assistant" means a person at least 14 years of age who has been designated by the provider and approved by the sponsoring organization to assist the provider in caring for children in the home.

"Refusal to renew a Certificate of Registration" or "nonrenewal" means the nonissuance of a Certificate of Registration by the sponsoring organization after the expiration of the existing Certificate of Registration.

"Registration fee" means payment to a sponsoring organization by a provider or applicant upon issuance of a temporary or regular Certificate of Registration.

"Renewal of a Certificate of Registration" means the issuance of a Certificate of Registration by the sponsoring organization after the expiration of the existing Certificate of Registration.

"Reside" means to be in a residence, to dwell permanently or continuously, and to occupy a place as one's legal domicile.

"Revocation of a Certificate of Registration" means a permanent removal of a provider's current Certificate of Registration for failure to comply with the applicable requirements of the Manual of Requirements.

"Shelter-in-place" means occupants in the building seek shelter in the home from an external threat, such as a weather-related situation or chemical spill.

"Should" denotes a recommendation reflecting goals toward which a sponsoring organization or a family child care provider is encouraged to work.

"Staff member" means a person employed by or working for a sponsoring organization on a regularly scheduled basis. This includes full-time, part-time, and voluntary staff, whether paid or unpaid.

"Substitute provider" means a person at least 18 years of age designated by the provider and approved by the sponsoring organization who is readily available to provide child care on a temporary basis in the provider's home when the provider cannot be present. When the substitute provider cares for enrolled children for more than five consecutive days, or more than five days per month, a substitute provider shall meet the qualifications of an alternate provider.

"Supervision" means having awareness of and responsibility for the ongoing activity of each child, knowledge of activity requirements, children's needs, and accountability for their care. Adequate supervision requires the provider, substitute provider, provider assistant or alternate provider, if any, to be awake and have immediate access to children as needed.

"Suspension of a Certificate of Registration" means a temporary removal of a provider's current Certificate of Registration, which can be reinstated by the sponsoring organization upon the provider's compliance with the applicable requirements of the Manual of Requirements.

"Temporary Certificate of Registration" means a document issued by the sponsoring organization to a provider which indicates that the provider is in substantial compliance with the requirements of the Manual of Requirements, provided that no imminent hazard affecting the children exists in the home.

§ 3A:54-1.3 Approval requirements for sponsoring organizations

(a) A sponsoring organization shall obtain approval from the Office of Licensing pursuant to the legal authority specified in N.J.A.C. 3A:54-1.1(c) upon execution of a contract with the Department of Human Services.

(b) The Office of Licensing will conduct a triennial comprehensive programmatic inspection of the sponsoring organization to determine compliance with the applicable provisions of this chapter.

(c) If the sponsoring organization meets all applicable provisions of this chapter, the Office of Licensing will issue a letter of approval.

(d) The Office of Licensing will notify the sponsoring organization in writing if a letter of approval will not be issued.

(e) If the Office of Licensing determines that the sponsoring organization is in substantial compliance with all applicable provisions of this chapter, the Office of Licensing may issue a letter of temporary approval.

(f) The Office of Licensing may issue as many temporary approvals as it deems necessary. Each letter of temporary approval, however, may be issued for a period not to exceed six months.

(g) When a letter of temporary approval is issued, the Office of Licensing will provide a written statement explaining what the sponsoring organization must do to achieve full compliance.

(h) Each approval period, which may include the issuance of one or more letters of temporary approval and/or one letter of approval, shall be three years.

1. In determining the expiration date of the first letter of approval, the Office of Licensing shall compute the three-year approval period from the date of issuance of the first letter of approval or temporary approval.

2. In determining the expiration date of a renewed approval, the Office of Licensing shall compute the three-year approval period from the date on which the sponsoring organization's previous letter of approval expired.

(i) The letter of approval or temporary approval shall be maintained on file at the sponsoring organization's offices.

(j) An authorized representative of the Office of Licensing may make an announced or unannounced visit at any time during the sponsoring organization's normal operating hours to inspect the sponsoring organization or review files, reports, or records to determine its compliance with provisions of this chapter or to investigate a complaint.

(k) A sponsoring organization's approval may be denied or revoked for any activity, policy or conduct that presents a serious or imminent hazard to the health, safety and well-being of a child or that otherwise demonstrates the sponsoring organization's unfitness or inability to operate a sponsoring organization or to administer the family child care registration program in accordance with the provisions of this chapter and with sound and effective administrative and financial policies, procedures and practices.

(l) When a sponsoring organization is found to be in violation of any provision(s) of this chapter, the Office of Licensing will notify the sponsoring organization of the violation(s) in writing and afford the sponsoring organization an opportunity to abate the violation(s). If the sponsoring organization fails to abate the violation(s), the Office of Licensing may deny, suspend, revoke or refuse to renew the sponsoring organization's approval.

(m) When the Office of Licensing proposes to deny, suspend, revoke or refuse to renew a sponsoring organization's approval, the Office of Licensing will:

1. Notify the sponsoring organization in writing of the reasons for such action; and

2. Afford the sponsoring organization an opportunity to request an administrative hearing, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

§ 3A:54-1.4 Public access to records

(a) The Office of Licensing shall make the following items in its files available for public review:

1. Correspondence between the Office of Licensing and the sponsoring organization or other parties in matters pertaining to the Office of Licensing's review and inspection of the sponsoring organization;

2. Inspection/violation reports, where applicable, reflecting results of Office of Licensing inspections/reinspections of the sponsoring organization or of providers;

3. Forms and other standard documents used to collect routine data on the sponsoring organization and its program as part of its record of compliance with the Manual of Requirements;

4. Enforcement letters from the Office of Licensing requiring abatement of violations of the Manual of Requirements;

5. Completed complaint investigation reports, except for child abuse or neglect investigations or other information restricted from public access under the requirements of N.J.S.A. 9:6-8.10a or other State law; and

6. Any other documents, materials, reports or correspondence that would normally be included as part of the public record.

(b) The sponsoring organization shall make the following items in its files available for public review:

1. Applications for Certificates of Registration and related materials and documentation;

2. Copies of temporary and regular Certificates of Registration;

3. Correspondence between the sponsoring organization and the provider or other parties in matters pertaining to the sponsoring organization's monitoring or registration of the provider;

4. Evaluation/monitoring reports, where applicable, reflecting the results of the sponsoring organization's evaluation/monitoring of the provider;

5. Forms and other standard documents used to collect routine data on the provider as part of the provider's record of compliance with the Manual of Requirements;

6. Enforcement letters from the sponsoring organization requiring abatement of violations of the Manual of Requirements;

7. Correspondence to the sponsoring organization from the Office of Licensing regarding enforcement actions against the provider;

8. Chronological lists of events about the provider on compliance/enforcement matters;

9. Completed complaint investigation reports, except for child abuse or neglect investigations or other information restricted from public access under the requirements of N.J.S.A. 9:6-8.10a or other State law; and

10. Any other documents, materials, reports or correspondence that would normally be included as part of the public record.

(c) The Office of Licensing and the sponsoring organization shall keep confidential and not part of the public record the following:

1. Records, reports, or correspondence that pertain to child abuse or neglect investigations that are restricted from public access under the requirements of N.J.S.A. 9:6-8.10a or other State law;

2. Records, reports, correspondence, or forms containing names or any other information pertaining to children, parents, or providers that are restricted from public access under the requirements of N.J.S.A. 9:6-8.10a or other State law;

3. Records, reports, correspondence, or forms containing names of enrolled children or their parents;

4. Confidential information with regard to specific sponsoring organization personnel;

5. Memoranda and other internal correspondence between and among public agencies, including internal communication between the Office of Licensing and the Office of the Attorney General;

6. Any items that deal with reports of inspections or complaint investigations that are still in progress;

7. Health care provider's statements and results of Mantoux tests or chest X-rays received from providers, applicants and others, as specified in N.J.A.C. 3A:54-5.2(b) and (c);

8. Disclosures of criminal convictions received from providers, applicants and others, as specified in N.J.A.C. 3A:54-5.2(a)10; and

9. Other material required by State law to be maintained as confidential.

§ 3A:54-2.1 Sponsoring organization eligibility

(a) Any public agency or private not-for-profit agency or organization may apply to become a family child care sponsoring organization, provided the agency meets the eligibility requirements specified in (b) below.

(b) A family child care sponsoring organization, in order to secure, maintain, or renew a contract to provide registration services, shall:

1. Demonstrate the capability of providing administrative services, including, but not limited to, training, technical assistance, consultation, inspection, supervision and monitoring of family child care providers.

2. Meet the contracting requirements of the Department of Human Services, as specified in the Department of Human Services's Contract Policy and Information Manual and Cost Reimbursement Manual and all applicable requirements of the Manual of Requirements; and

3. Comply with all performance provisions and level of service provisions, as specified in the executed contract and its annexes.

§ 3A:54-2.2 Administrative responsibility

(a) A privately operated sponsoring organization shall have a governing board that has the authority to:

1. Set overall administrative and operational policies for the sponsoring organization;

2. Ensure the financial viability of the sponsoring organization;

3. Establish policies pertaining to, but not limited to:

i. Program services; and

ii. Personnel recruitment, selection, training and performance evaluation; and

4. Oversee fiscal operations, including budget and resource development.

(b) A publicly operated sponsoring organization shall have an advisory board or committee that offers advice and counsel to the sponsoring organization on the fiscal and administrative operation of the family child care registration program.

(c) The sponsoring organization shall delegate responsibility for day-to-day operations to an executive director or administrator and clearly delineate in writing the respective duties of the governing or advisory board and of the executive director or administrator.

(d) The sponsoring organization shall appoint an appeals committee, which shall:

1. Hear appeals made by providers or provider applicants on actions taken by the sponsoring organization to deny, suspend, revoke or refuse to renew a Certificate of Registration;

2. Exclude from its membership staff members responsible for decisions regarding the denial, suspension, revocation or refusal to renew a Certificate of Registration; and

3. Maintain on file documentation of its findings, as specified in N.J.A.C. 3A:54-2.4(a)1ix.

(e) The sponsoring organization shall provide family child care registration services throughout all municipalities in its designated geographic area.

(f) The sponsoring organization may subcontract for the provision of services to providers and provider applicants. The sponsoring organization shall ensure that:

1. An agency under subcontract complies with all applicable requirements of the Manual of Requirements in the delivery of services to providers and provider applicants;

2. An agency under subcontract to register providers does not deny a Certificate of Registration to any provider applicant who is in full compliance with the applicable requirements of the Manual of Requirements; and

3. A copy of the subcontract between the sponsoring organization and the agency subcontracted to perform services related to family child care registration is maintained on file, as specified in N.J.A.C. 3A:54-2.4(a)1xi.

(g) The Office of Licensing will notify the sponsoring organization in writing whenever the Office of Licensing determines that the sponsoring organization is operating in violation of any of the requirements

of the Manual of Requirements, in which case the notification will specify the corrective action that must be taken by the sponsoring organization in order to abate the violation(s).

§ 3A:54-2.3 Reporting requirements

(a) The sponsoring organization or any staff member shall verbally notify the Department's State Central Registry at 1-877-NJ-ABUSE (1-877-652-2873) immediately, whenever there is reasonable cause to believe that a child has been subjected to abuse or neglect by a provider or any other person, pursuant to N.J.S.A. 9:6-8.10.

(b) The sponsoring organization or any staff member shall notify the Office of Licensing at 1-877-667-9845 immediately of any imminent danger(s) or hazard(s) that threaten the health and safety of children in the provider's home.

(c) The sponsoring organization shall notify the Department and the Office of Licensing, verbally, at 1-877-667-9845 of any of the following changes or events by the next working day after the sponsoring organization learns of their occurrence:

1. Injury that results in the admittance of a child to a hospital while in the care of a provider;

2. The death of a child while in the care of a provider;

3. Damage to the sponsoring organization's offices that affects the operation of family child care registration;

4. Any criminal conviction(s) of the staff of the sponsoring organization or of a provider, alternate provider, substitute provider, provider assistant, or member of a provider's household;

5. Cancellation of the sponsoring organization's general/comprehensive liability insurance coverage; and

6. Unanticipated permanent or temporary closing of the sponsoring organization.

(d) The sponsoring organization shall track and document all reported injuries and deaths of children while in the provider's care as required in N.J.A.C. 3A:54-5.10(b)1 and 2, as part of the DCF, Office of Licensing Sponsoring Organization Quarterly Report on Family Child Care Registration.

(e) The sponsoring organization shall notify the Department and the Office of Licensing, verbally, at 1-877-667-9845 within three working days, of any changes in the name, location, executive director or administrator of the sponsoring organization.

§ 3A:54-2.4 Sponsoring organization records

(a) The sponsoring organization shall maintain in files located at its office the following records:

1. Administrative records:

i. The Manual of Requirements for Family Child Care Registration;

ii. The document providing information to parents, as specified in N.J.A.C. 3A:54-4.9(a);

iii. Staff records, as specified in N.J.A.C. 3A:54-3.1(g);

iv. Documentation of training sessions provided to staff members, as specified in N.J.A.C. 3A:54-3.4(a)2;

v. A copy of the sponsoring organization's insurance policies, as specified in the Department of Human Services's Contract Policy and Information Manual;

vi. Financial records, as specified in the Department of Human Services's Contract Policy and Information Manual;

vii. Documentation of provider training sessions, as specified in N.J.A.C. 3A:54-4.2(f);

viii. Files documenting denials, suspensions, revocations and nonrenewals of Certificates of Registration, as specified in N.J.A.C. 3A:54-4.6(d);

ix. Documentation of findings by the appeals committee, as specified in N.J.A.C. 3A:54-2.2(d)3;

x. Documentation of registration fees collected from providers, as specified in N.J.A.C. 3A:54-4.5(b); and

xi. A copy of contracts between the sponsoring organization and any subcontracted agency to perform services related to family child care registration, as specified in N.J.A.C. 3A:54-2.2(f)3.

2. Records on providers:

i. The provider's completed application form, as specified in N.J.A.C. 3A:54-5.2(a);

ii. A copy of the provider's Certificate of Registration, as specified in N.J.A.C. 3A:54-5.4 and 5.5;

iii. Health records received for the provider or applicant and the alternate provider and provider assistant, if any, as specified in N.J.A.C. 3A:54-5.2(b) through (d);

iv. Letters of reference received for the provider or applicant and the alternate provider, if any, as specified in N.J.A.C. 3A:54-5.2(e);

v. Disclosure(s) of criminal conviction(s) if any, as specified in N.J.A.C. 3A:54-5.2(a)10;

vi. A written report of each visit by the sponsoring organization to the home of the provider or applicant, as specified in N.J.A.C. 3A:54-4.1(c)5 and 4.7(d);

vii. A record of pre-service and in-service training sessions completed by the provider or applicant and the alternate provider, if any, as specified in N.J.A.C. 3A:54-4.2(f);

viii. A record of any complaints of alleged violations of the Manual of Requirements against the provider, as specified in N.J.A.C. 3A:54-4.6(d) and the findings of each complaint investigation;

ix. Files on providers who have discontinued family child care services; and

x. Additional information as may be received regarding the provider's compliance with the requirements of the Manual of Requirements.

(b) The sponsoring organization shall provide to the Office of Licensing upon request:

1. A list of names, addresses and telephone numbers of all registered providers; and

2. Statistical records, including:

i. The number of providers registered; and

ii. The number and ages of the children served.

(c) The administrative records specified in (a)1 and 2 above shall be maintained by the sponsoring organization for two calendar years.

(d) The sponsoring organization shall contact all registered providers at least twice a year to confirm the provider's name, address, telephone number and continued participation in the registration program.

§ 3A:54-2.5 Complaints against a sponsoring organization

(a) Whenever the Office of Licensing receives a complaint questioning the compliance of a sponsoring organization with the requirements of the Family Day Care Provider Registration Act or of the Manual of Requirements, the Office of Licensing will initiate an investigation of the allegation within 10 working days to determine whether the complaint is substantiated.

(b) The Office of Licensing will notify the sponsoring organization of the results of the complaint investigation within 15 working days after the report of the Office of Licensing's investigation has been finalized. Such notification shall include the results of the investigation, in keeping with the New Jersey Open Public Records Act (N.J.S.A. 47:1A-1 to 4), with the exception of any information not permitted to be disclosed under N.J.S.A. 9:6-8.10a or other State law.

(c) If the complaint is substantiated or if any violations are cited as a result of the complaint investigation, the sponsoring organization shall abate the violation(s), in accordance with the time frame established by the Office of Licensing.

(d) Any individual filing a complaint against a sponsoring organization may do so anonymously. If the complainant reveals his or her identity, the name of the complainant shall be included in the Office of Licensing's records.

(e) A description of the complaint allegations and the substantiation or non-substantiation of each allegation shall be included in the Office of Licensing's records and shall be available for public review upon completion of the investigation by the Office of Licensing, with the exception of any information not permitted to be disclosed under N.J.S.A. 9:6-8.10a or other State law.

(f) The sponsoring organization shall cooperate with the Office of Licensing whenever complaint investigations are conducted.

§ 3A:54-2.6 (Reserved)

§ 3A:54-3.1 General staff requirements

(a) The executive director or administrator and every staff member of a sponsoring organization shall:

1. Be of good character and reputation;

2. Be in sufficient physical, mental and emotional health to perform his or her duties satisfactorily; and

3. Possess skills, attributes and characteristics conducive to and suitable for directing a sponsoring organization and/or providing services to parents and providers, as specified in the Manual of Requirements.

(b) Prior to the employment or utilization of the executive director/administrator or a staff member, the sponsoring organization shall require the applicant for executive director/administrator and each staff applicant to complete and sign an application for employment, indicating the applicant's:

1. Name, address and telephone number;

2. Education and work experience; and

3. Disclosure of criminal convictions, if any.

(c) Prior to the executive director/administrator's or any staff member's employment, the sponsoring organization shall obtain two references, either in writing or verbally, from former employers or other persons who have knowledge of the applicant's work experience, education, and character.

(d) The executive director/administrator and every staff member shall notify the sponsoring organization by the end of the sponsoring organization's next working day, of any criminal convictions during their employment or utilization by the sponsoring organization.

(e) Evidence of conviction for crimes of violence, anti-social behavior, child abuse/neglect or other crimes which may relate adversely to the operation of the sponsoring organization shall be among those actions that are considered in determining an individual's fitness and suitability to serve as executive director/administrator or as a staff member.

(f) Evidence of conviction of a crime, in itself, shall not automatically preclude an individual from serving as executive director/administrator or as a staff member and shall not automatically result in the removal or termination of the executive director/administrator or a staff member from his or her position or job. Such determination shall be made on a case by case basis, in keeping with the provisions of the State Rehabilitated Convicted Offenders Act (N.J.S.A. 2A:168A-1 et seq.), which provides that a person convicted of a crime may not be disqualified or discriminated against by a licensing authority unless the conviction relates adversely to the occupation, trade, vocation, profession or business for which a license is sought.

(g) The sponsoring organization shall maintain on file for the executive director/administrator and for each staff member:

1. A completed employment application;

2. Written documentation of references; and

3. Disclosure(s) of criminal convictions, if any.

§ 3A:54-3.2 Types and responsibilities of staff

(a) Each sponsoring organization shall have an executive director or administrator who is responsible for the overall management and administration of the sponsoring organization's family child care registration program. The executive director or administrator shall designate a person to assume this responsibility in his or her absence.

(b) Each sponsoring organization shall have an on-site manager for each Department of Human Services (DHS) contracted county who is responsible for the daily operation for family child care registration in that county. The executive director or administrator may serve as the on-site manager.

(c) The sponsoring organization shall have sufficient staff to carry out the family child care registration program.

(d) The executive director/administrator may also serve as a staff member.

(e) The executive director/administrator or designee shall ensure:

1. That the sponsoring organization operates in full compliance with all applicable requirements of the Manual of Requirements;

2. That each provider operates in full compliance with all applicable requirements of the Manual of Requirements;

3. The supervision of all staff members assigned to the sponsoring organization's family child care registration program;

4. The development and implementation of policies and procedures for the day-to-day operation of the sponsoring organization's family child care registration program;

5. The orientation of staff members to the policies and procedures of the sponsoring organization;

6. The development and maintenance of administrative, fiscal and program records;

7. The training of staff members, as specified in N.J.A.C. 3A:54-3.4, and providers, as specified in N.J.A.C. 3A:54-4.2; and

8. The development and implementation of a program of outreach and public relations, as specified in N.J.A.C. 3A:54-4.11, and technical assistance, as specified in N.J.A.C. 3A:54-4.8.

§ 3A:54-3.3 Staff qualifications

(a) The executive director or administrator and designee, if applicable, designated in N.J.A.C. 3A:54-3.2(a) shall possess the following:

1. A bachelor's degree; or

2. Three years of managerial or supervisory experience in the field of human services, child care services, child development, education, nursing, social work, or business.

(b) Staff members responsible for provider evaluation, monitoring, support, technical assistance, and training shall possess the following:

1. An associate's degree in human services, child care services, child development, education, nursing or social work and one year of experience working with children; or

2. A high school diploma or General Education Development (GED) diploma and three years of full-time experience providing or administering human services in a group program for children under the age of 13 or three years of full-time experience in the fields of child development, education, nursing, or social work.

§ 3A:54-3.4 Staff training

(a) The executive director/administrator shall:

1. Provide staff members with access to a copy of the Manual of Requirements for Family Child Care Registration; and

2. Ensure that staff, as appropriate, are trained in:

i. Recognizing and reporting child abuse/neglect, as specified in N.J.A.C. 3A:54-2.3(a);

ii. Evaluating provider applicants, as specified in N.J.A.C. 3A:54-4.1;

iii. Conducting pre-service and in-service training sessions for providers, as specified in N.J.A.C. 3A:54-4.2;

iv. Monitoring providers, as specified in N.J.A.C. 3A:54-4.7;

v. Providing technical assistance to providers, as specified in N.J.A.C. 3A:54-4.8;

vi. Procedures for identification and referral of special needs children, as specified in N.J.A.C. 3A:54-4.9(b);

vii. Implementing outreach and public relations for family child care, as specified in N.J.A.C. 3A:54-4.11; and

viii. The requirements of the Manual of Requirements for Family Child Care Registration.

§ 3A:54-4.1 Evaluation of family child care provider applicants

(a) The sponsoring organization shall provide to each applicant for a Certificate of Registration the following:

1. A copy of the Manual of Requirements for Family Child Care Registration;

2. An application form;

3. The names and addresses of all family child care networks known to the sponsoring organization and serving the applicant's geographic area; and

4. The name, address, and telephone number of the local resource and referral agency of the New Jersey Child Care Resource and Referral System serving the applicant's area, if other than the sponsoring organization.

(b) The sponsoring organization shall evaluate each applicant prior to the issuance of a Certificate of Registration.

(c) The sponsoring organization's evaluation of each applicant shall include a review of:

1. The provider application form, designated by the Office of Licensing;

2. Disclosures by the provider or applicant, the substitute provider, all members of the provider's household who are at least 14 years old, and the provider assistant and the alternate provider, if any, of any criminal conviction(s), as specified in N.J.A.C. 3A:54-5.2(a)10;

3. Child Abuse Record Information (CARI) background checks of the provider or applicant, the substitute provider, all members of the provider's household who are at least 14 years old, the provider assistant, and the alternate provider, if any, as specified in N.J.A.C. 3A:54-5.3(a)1;

4. Letters of reference received for the provider or applicant and the alternate provider, if any, as specified in N.J.A.C. 3A:54-5.2(e);

5. Health records submitted by the provider or applicant, the alternate provider and provider assistant, if any, and any household members who are present during the care of enrolled children as specified in N.J.A.C. 3A:54-5.2(b) and (c);

6. A written report of the evaluation visit to the applicant's family child care home, as specified in (d) below;

7. Evidence showing that the applicant and the alternate provider, if any, have completed pre-service training, as specified in N.J.A.C. 3A:54-4.2; and

8. Documentation for the applicant, substitute provider, and alternate provider, if any, of current certification in cardiopulmonary resuscitation (CPR) and completion of a first aid course taken every three years if there is no expiration date.

i. Cardiopulmonary resuscitation (CPR) training shall be certified through one of the following: American Heart Association; American Red Cross; National Safety Council: Infant and Toddler CPR (if care is limited to infants and toddlers), or Medic Pediatric Course.

ii. The child care provider shall maintain current CPR and first aid certification, as long as the provider maintains their Certificate of Registration.

iii. The first aid training and CPR certification shall be applicable to any of the ages of the children enrolled in the Family Child Care Home at any given time.

iv. The CPR card and first aid certificate shall be available for review upon request.

v. The CPR and first aid training shall include an in-person learning component.

(d) Applicants who fail to submit all documentation within 90 days will be deemed to have withdrawn their application.

(e) The sponsoring organization shall visit each applicant's home to evaluate the applicant's compliance with all applicable requirements of the Manual of Requirements.

(f) The sponsoring organization shall complete and maintain on file a Home Inspection/Violation Report designated by the Office of Licensing for each home evaluated, identifying the date the violation was cited, the nature of the violation and the date that the reinspection occurred or will occur.

§ 3A:54-4.2 Training of family child care providers

(a) The sponsoring organization shall provide 18 hours of pre-service training for each provider or applicant and alternate provider prior to the issuance of a Certificate of Registration.

(b) The sponsoring organization shall ensure that the pre-service training includes an overview and information regarding, but is not limited to, the following subjects:

1. Child growth and development;

2. Discipline;

3. Safety, first aid and emergency evacuation procedures;

4. Health and sanitation;

5. Nutrition, developmentally appropriate and age-appropriate feeding;

6. Developmentally appropriate program activities;

7. Parent-provider communication;

8. Recognizing and reporting child abuse and neglect;

9. Reducing the risk and recognizing potential signs and symptoms of Abusive Head Trauma and Shaken Baby Syndrome;

10. Preventing Sudden Infant Death Syndrome and using safe sleeping practices, as recommended by the American Academy of Pediatrics (AAP);

11. Administering medication to children;

12. Prevention of and response to emergencies due to food and allergic reactions as specified in N.J.A.C. 3A:54-6.14(i)1 and 2;

13. Including children with special needs in the family child care home;

14. Care plan implementation for children with special health care needs;

15. Prevention and control of infectious diseases (including immunization), as specified in N.J.A.C. 3A:54-6.8, 6.9, and 6.11;

16. Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury, such as electrical hazards, bodies of water, and vehicular traffic, as specified in N.J.A.C. 3A:54-6.3 through 6.6.

17. Understanding New Jersey's family child care registration rules;

18. Understanding sponsoring organization operations, policies, and procedures;

19. Emergency preparedness and response planning for emergencies resulting from a natural disaster or a man-made caused event in the family child care home, as specified in N.J.A.C. 3A:54-6.4;

20. Appropriate precautions when transporting children, if applicable, as specified in N.J.A.C. 3A:54-6.7;

21. Cardiopulmonary resuscitation (CPR); and

22. First aid.

(c) The pre-service training session(s) for providers, applicants and alternate providers shall include group or individual instruction provided by persons with expertise in areas listed in (b) above, and may be supplemented by:

1. Printed materials;

2. Television broadcasts; or

3. Audio-visual materials.

(d) The sponsoring organization shall also provide in-service training for providers on a semi-annual basis by means of group or individual instruction and written material. In-service training shall include continued reinforcement of the subjects listed in (b) above. A total of at least eight hours of in-service training shall be offered to providers each year.

(e) The sponsoring organization shall arrange each pre-service and in-service training session in an appropriate location that is accessible to the providers.

(f) The sponsoring organization shall maintain on file documentation of all pre-service and in-service training, including for each training session:

1. A description;

2. A schedule; and

3. Attendance lists.

(g) The sponsoring organization shall provide to each provider:

1. Prior to the issuance of a Certificate of Registration, a copy of appropriate informational materials supplied by the Office of Licensing; and

2. From time to time, any other available materials that may assist the provider in operating a family child care home.

(h) The sponsoring organization shall inform providers about available sources of training in first aid and cardiopulmonary resuscitation.

§ 3A:54-4.3 Issuance of a Certificate of Registration

If the sponsoring organization determines that the provider applicant is in full compliance with all applicable requirements of the Manual of Requirements, the sponsoring organization shall issue a regular Certificate of Registration.

§ 3A:54-4.4 Issuance of a temporary Certificate of Registration

(a) If the sponsoring organization determines that the provider applicant is in substantial compliance with the applicable requirements of the Manual of Requirements, and provided that there are no serious or imminent hazards to the health, safety and well-being of the children, the sponsoring organization shall issue a temporary Certificate of Registration.

(b) When a temporary Certificate of Registration is issued, the sponsoring organization shall explain in writing what the provider must do to secure a regular Certificate of Registration.

(c) In determining the expiration date of the first regular Certificate of Registration, the sponsoring organization shall compute the three-year registration period from the date of the issuance of:

1. The first temporary Certificate of Registration, if any; or

2. The regular Certificate of Registration, if no temporary Certificate of Registration has been issued.

§ 3A:54-4.5 Collection of registration fees

(a) The sponsoring organization shall collect a registration fee of $ 25.00 from the provider upon the issuance of an initial temporary, or initial or renewal regular Certificate of Registration.

(b) The sponsoring organization shall retain the funds generated by registration fees and shall maintain a record of the registration fees collected from the providers, in accordance with Department of Human Services contract requirements.

(c) The sponsoring organization shall ensure and document that the registration fees collected are directed to the maintenance or improvement of the sponsoring organization's family child care registration program.

§ 3A:54-4.6 Complaints against a provider

(a) When the sponsoring organization receives a complaint of alleged violation(s) of the Manual of Requirements by a provider, other than child abuse or neglect, the sponsoring organization shall investigate the complaint within 10 working days to determine whether the complaint is substantiated and shall require the provider to abate any violations found. The sponsoring organization shall advise complainants that complaints may be made anonymously. The sponsoring organization's investigation shall include an inspection of the home whenever such an inspection is necessary to substantiate the complaint.

(b) If, during the course of investigating an allegation of child abuse or neglect, the Department determines that in order to protect the children it is necessary for the Department to remove children from a provider's home, the sponsoring organization shall suspend the Certificate of Registration, if the Office of Licensing recommends such action.

(c) The sponsoring organization shall maintain on file documentation of complaints against providers, and a Complaint Investigation Report designated by the Office of Licensing documenting the findings of the complaint.

(d) The sponsoring organization shall notify the provider of the results of the complaint investigation in writing within 15 working days after the report of the investigation has been finalized.

§ 3A:54-4.7 Monitoring of family child care providers

(a) The sponsoring organization shall monitor each provider at least once every two years to evaluate the provider's compliance with the applicable requirements of the Manual of Requirements.

(b) The sponsoring organization shall annually monitor no less than 20 percent of the providers on a random basis.

(c) The sponsoring organization shall conduct annual, unannounced monitoring inspections prior to renewing the Certificate.

(d) The sponsoring organization shall monitor each provider prior to renewing the provider's Certificate of Registration.

(e) The sponsoring organization shall maintain on file a written report of each monitoring visit to the provider's home.

§ 3A:54-4.8 Technical assistance

(a) The sponsoring organization shall provide technical assistance to providers and parents of enrolled children, which shall address, but not be limited to, the following areas:

1. Improving the provider's care of and service to children in the home;

2. Improving and strengthening communications between providers and parents;

3. Educating parents and providers in child care and child development; and

4. Answering providers' and parents' questions regarding family child care.

(b) The sponsoring organization shall maintain a listing of support services available in the community and shall refer providers and parents of enrolled children upon request.

(c) The sponsoring organization shall make the following information available to providers:

1. A list of physical symptoms or conditions that indicate a child may have a communicable disease;

2. Guidelines for administration of medication, if applicable, which shall include that:

i. All medication shall be kept in its original container;

ii. The provider shall maintain, at the home, documentation of the child's name and written authorization from the parent or legal guardian for the provider to administer medication or health care procedures; and

iii. The provider shall maintain, at the home, documentation of the date and time medication or a health care procedure was administered to a child and the name of the person who administered it;

3. Guidelines for the care of sick children, if applicable; and

4. A list of services to which a provider is entitled, including:

i. Participating in at least two provider in-service training sessions per year offered by the sponsoring organization; and

ii. Receiving technical assistance from the sponsoring organization.

§ 3A:54-4.9 Information to parents

(a) The sponsoring organization shall supply to providers sufficient copies of a written Information to Parents Statement designated by the Office of Licensing for the parents of all enrolled children. The Information to Parents Statement shall indicate that:

1. The provider has received a Certificate of Registration;

2. The provider is required to display the Certificate of Registration in a prominent location within the family child care home during its operating hours;

3. The provider is required to comply with all applicable requirements of the Manual of Requirements;

4. Parents may receive a copy of the Manual of Requirements by contacting the sponsoring organization;

5. Parents may report alleged violations of the Manual of Requirements to the sponsoring organization or to the Office of Licensing;

6. Any person who has reasonable cause to believe that a child enrolled in the family child care home has been or is being subjected to any kind of child abuse/neglect by any person, whether in the family child care home or not, is required by State law to report such allegations to the Department's State Central Registry at 1-877 NJ-ABUSE (1-877-652-2873). Such reports may be made anonymously;

7. Parents of enrolled children shall be permitted to visit the family child care home at any time when enrolled children are present without having to secure the prior approval of the provider. Parents may be restricted to visit only those areas of the home designated for family child care;

8. The operation of the family child care home is subject to monitoring by the sponsoring organization at least once every two years and by the Office of Licensing;

9. The provider is required to comply with the inspection/investigation functions of the sponsoring organization and the Office of Licensing, including the interviewing of adults and children in the family child care home;

10. Parents may request that the sponsoring organization provide technical assistance to the parent or the provider, and referrals to appropriate community resources;

11. The provider shall notify the parents in writing when a substitute or alternate provider will be caring for the children, unless there is an emergency on a particular day, in which case the provider shall verbally notify the parent; and

12. The provider shall notify parents if weapons are present and explain precautions taken to ensure that they are inaccessible to the children.

(b) When an enrolled child has been identified as or is suspected of having a developmental delay or disability, the sponsoring organization shall:

1. Inform the parent of the child's right to early intervention and special education services, if eligible;

2. For preschool special education services, refer the parent to the New Jersey Department of Education Project Child Find at 1-(800) 322-8174 (toll-free) in order to refer a child for an evaluation to determine eligibility, and if eligible, the development of an Individualized Education Plan to address the child's need for preschool education services; and

3. Refer the parent of a child under 13 years of age with special health care needs to the New Jersey Department of Health, Special Child Health and Early Intervention Services Program at (609) 777-7778 for information about programs and services.

§ 3A:54-4.10 Referral procedures

(a) The sponsoring organization shall provide to the New Jersey Child Care Resource and Referral System the names, addresses, and telephone numbers of all providers who have agreed to receive referrals through that system.

(b) The sponsoring organization shall refer requests from parents seeking family child care or other child care services to the New Jersey Child Care Resource and Referral System serving the area(s) for which the parent is seeking child care information.

(c) The sponsoring organization may also refer parents seeking family child care services to any registered provider.

§ 3A:54-4.11 Outreach and public relations

The sponsoring organization shall provide information on family child care registration to agencies, organizations and the general public.

§ 3A:54-5.1 Provider eligibility

(a) A family child care provider, in order to be eligible for a Certificate of Registration, shall:

1. Be at least 18 years of age;

2. Be of good character and reputation, with sufficient knowledge, intelligence, stability, energy and maturity to maintain a family child care home and to care for children;

3. Be in sufficient physical, mental and emotional health to care properly for children to be placed in the home;

4. Reside in the family child care home; and

5. Demonstrate to the satisfaction of the sponsoring organization and the Office of Licensing that he or she complies with all applicable requirements of the Manual of Requirements.

§ 3A:54-5.2 Application for registration

(a) An applicant for an initial or renewal Certificate of Registration shall submit to the sponsoring organization a completed application form, which shall include:

1. The provider applicant's name, address and telephone number;

2. A statement indicating:

i. The provider applicant, the alternate provider, if any, and the substitute provider are at least 18 years of age; and

ii. The provider assistant, if any, is at least 14 years of age;

3. A list of all adults residing in the provider applicant's household;

4. The number and ages of all children under 18 years of age residing in the provider applicant's household;

5. The hours in which the provider applicant plans to provide child care;

6. The name, address and telephone number of the provider assistant and the alternate provider, if any, and the substitute provider;

7. A statement from the provider applicant indicating that all pets are domesticated, free from disease, non-aggressive and meet all applicable State and local codes or ordinances pertaining to the keeping of pets and, as applicable:

i. All household pets shall be vaccinated; and

ii. Proof of current vaccination(s) as documented by a veterinarian shall be kept on the premises;

8. An indication as to whether the provider applicant wishes to be listed with either or both of the following:

i. The New Jersey Child Care Resource and Referral System; and

ii. A list of registered providers that is available to the public through the Office of Licensing;

9. A disclosure of information about and circumstances surrounding any previous denial, suspension, revocation or nonrenewal of a Certificate of Registration as a family child care provider in New Jersey or of a license, certificate or other approval as a family child care provider in any other state; and

10. A disclosure of the presence or absence of criminal convictions by the provider applicant, the substitute provider, all members of the provider's household, and any individual who frequents the home on an intermittent basis, who are at least 14 years old, and the alternate provider and the provider assistant, if any, and any individual who expects to remain in the home longer than 15 consecutive days, or on a frequent intermittent basis.

i. Evidence of conviction of a crime, in itself, shall not automatically preclude an individual from serving as a provider, provider assistant, alternate provider or substitute provider, and shall not automatically result in denying the application or revoking, suspending or refusing to renew the Certificate of Registration. Such determination shall be made on a case by case basis, in keeping with the provisions of the State Rehabilitated Convicted Offenders Act (N.J.S.A. 2A:168A-1 et seq.) which provides that a person convicted of a crime may not be disqualified or discriminated against by a licensing authority unless the conviction relates adversely to the occupation, trade, vocation, profession or business for which a license is sought.

ii. The provider shall notify the sponsoring organization by the end of the sponsoring organization's next business day of any criminal conviction(s) during the three-year registration period by the provider, the substitute provider, a member of the provider's household who is at least 14 years old, and the alternate provider and the provider assistant, if any.

(b) An applicant for an initial or renewal Certificate of Registration shall also submit to the sponsoring organization a health care provider's statement(s) for the applicant, the alternate provider and the provider assistant, if any, the substitute provider, and any household member(s) who are present during the care of enrolled children, as applicable, verifying the applicant, the alternate provider, the provider assistant, the substitute provider, and any household member(s), are in good health, free from communicable disease, and able to care for children. Such statement(s) shall be based on a medical examination conducted within the six months immediately preceding the submission of the application.

(c) An applicant for an initial Certificate of Registration shall also submit to the sponsoring organization written proof of the results of either (c)1 or 2 below for the applicant, the alternate provider, the provider assistant, and any household member(s) who are present during the care of enrolled children, if any:

1. A Mantoux tuberculin skin test with five TU (tuberculin units) of PPD tuberculin, conducted within the six months immediately preceding the submission of the application; or

2. A chest x-ray if the individual has had a previous positive Mantoux tuberculin test or has a medical contraindication that precludes a Mantoux test.

(d) The provider, the alternate provider, the provider assistant, and any household member(s) who are present during the care of enrolled children shall obtain additional Mantoux tests when required by the Office of Licensing based on a recommendation by the New Jersey Department of Health.

(e) An applicant for an initial Certificate of Registration shall also submit to the sponsoring organization one of the following, for both the applicant and the alternate provider, if any:

1. Two letters of reference, dated within three years immediately preceding the submission of the application, including at least one from a person who can attest to the individual's character, reputation and suitability to work with children; or

2. The names, addresses and telephone numbers of at least two persons who can provide letters of reference upon request.

(f) The provider applicant shall permit and participate in an announced or unannounced evaluation of the applicant's home by the sponsoring organization. The evaluation shall include:

1. Inspection of all rooms, furniture and equipment in areas designated for use by enrolled children; and

2. Access to all areas on the premises not designated for use by enrolled children, to observe whether any hazards to children exist, including, but not limited to, the basement, the attic (if accessible), the storage shed, garage, and carport.

(g) The provider applicant and the alternate provider, if any, shall attend eight hours of pre-service training provided by the sponsoring organization.

(h) The sponsoring organization shall process all applications for a Certificate of Registration without regard to the applicant's race, national origin, religion, sex, age, or geographic location.

§ 3A:54-5.3 Child Abuse Record Information background check procedures

(a) Prior to the issuance or renewal of a Certificate of Registration, the applicant or provider shall obtain written consent from the applicant or provider, substitute provider, provider assistant and alternate provider, if any, all members of the applicant's or provider's household who are at least 14 years of age, and any other persons who are or will be working at the home on a regular basis, for the Department to conduct a Child Abuse Record Information (CARI) background check to determine whether an incident of child abuse or neglect has been substantiated against any such person.

1. Each person specified in (a) above shall complete a signed consent form provided by the Department that indicates the identifying information necessary to conduct a CARI background check, including the person's name, address, date of birth, sex, race, and Social Security number. Pursuant to the Federal Privacy Act of 1974 (P.L. 93-579), the Department will advise each such person that the disclosure of his or her Social Security number is voluntary, and that the Social Security number will only be used for the purpose of conducting a CARI background check.

2. The applicant or provider shall submit to the sponsoring organization the consent forms specified in (a)1 above for all persons specified in (a) above.

3. The provider shall inform the sponsoring organization of any additional persons at least 14 years of age who begin living or working in the home during the three-year registration period, and expect to remain in the home longer than 15 consecutive days, or on a frequent intermittent basis. The provider shall submit to the sponsoring organization a signed consent form as specified in (a)1 above for each such person.

(b) If any person specified in (a) above refuses to consent to a CARI background check, the sponsoring organization shall deny the application or suspend, revoke or refuse to renew the Certificate of Registration, as applicable, in keeping with P.L. 1993, c. 350. The applicant or provider may choose to remove or replace the person who refuses to consent to a CARI background check, if other than the applicant or provider, before the denial, suspension, revocation or nonrenewal takes effect. If the applicant or provider removes or replaces such person, and submits a signed statement attesting to the person's removal, the sponsoring organization shall continue the registration process.

(c) The sponsoring organization shall submit the completed consent forms specified in (a)1 above to the Department upon receipt of the forms from the applicant or provider. The Department will conduct a search of its records for child abuse and neglect incidents for which the perpetrator was afforded an opportunity to appeal the substantiation. Within 30 working days of receipt of the completed forms from the sponsoring organization, the Department will inform the sponsoring organization in writing as to whether a substantiated incident of child abuse or neglect by any person specified in (a) above has been found. If such an incident has been found, the Department will inform the sponsoring organization in writing of the name of the perpetrator.

(d) If the CARI background check reveals no substantiated incident of child abuse or neglect involving a person specified in (a) above, the sponsoring organization may issue or renew the Certificate of Registration, provided that all other applicable requirements of N.J.A.C. 3A:54, this chapter, have been met.

(e) If the CARI background check reveals that an incident of child abuse or neglect has been substantiated against a person specified in (a) above, the sponsoring organization shall deny the application or suspend,

revoke or refuse to renew the Certificate of Registration, as applicable, in accordance with P.L. 1993, c.350.

1. The sponsoring organization shall notify the applicant or provider in writing that the denial, suspension, revocation or nonrenewal is based on the results of a CARI background check.

2. The sponsoring organization shall disclose to the applicant or provider the name of the perpetrator, but shall not disclose any other information concerning the incident.

3. The applicant or provider may choose to remove or replace the perpetrator, if other than the applicant or provider, before the denial, suspension, revocation or nonrenewal takes effect. If the applicant or provider removes or replaces such a perpetrator, the sponsoring organization shall continue the registration process.

4. The sponsoring organization and the applicant or provider shall keep confidential and shall not disclose to any other person the identity of the perpetrator and all other information concerning the incident, in accordance with the confidentiality provisions of the State Child Abuse and Neglect Law, N.J.S.A. 9:6-8.10a.

(f) The sponsoring organization shall inform the applicant or provider in writing that he or she may appeal the denial, suspension, revocation or nonrenewal to the Office of Licensing, as specified in N.J.A.C. 3A:54-5.8.

§ 3A:54-5.4 Issuance of a Certificate of Registration

(a) If the sponsoring organization determines that the provider or applicant is in full compliance with all applicable requirements of the Manual of Requirements, the sponsoring organization shall issue a regular Certificate of Registration. The sponsoring organization's determination shall include a visit to the provider's or applicant's home when one or more enrolled children are present.

(b) Each registration period shall be three years, and may include the issuance of a regular Certificate of Registration, or one or more temporary Certificates of Registration and a regular Certificate of Registration.

(c) The Certificate of Registration shall be posted in a prominent location within the family child care home during the hours enrolled children are in the home.

(d) The Certificate of Registration shall be issued to a specific provider at a specific location and shall not be transferable.

(e) If it is necessary to change any information noted on the application, other than a change of residence, after the Certificate of Registration has been issued, the provider shall advise the sponsoring organization in writing no later than 15 calendar days after the change.

(f) If the provider changes residence:

1. The provider shall notify the sponsoring organization in advance, or by no later than the beginning of the sponsoring organization's next working day, as specified in N.J.A.C. 3A:54-5.10(b)5;

2. The Certificate of Registration at the previous residence shall be void;

3. The provider shall submit a new application for registration to the sponsoring organization;

4. The provider shall permit and participate in an evaluation of the new residence; and

5. A new Temporary Certificate of Registration shall be issued by the sponsoring organization if the provider is in substantial compliance with the applicable requirements of the Manual of Requirements, and provided there are no serious imminent hazards to the health, safety, and well-being of children.

6. A new Regular Certificate of Registration shall be issued if the provider is in full compliance with all applicable requirements of the Manual of Requirements.

(g) The provider shall permit and participate in all monitoring inspections by the sponsoring organization and by the Office of Licensing. Monitoring inspections shall be conducted at least once every two years.

(h) The provider shall not claim in advertising or in any written or verbal announcement to be registered with the Department of Children and Families or the State of New Jersey unless a Certificate of Registration is currently in effect.

§ 3A:54-5.5 Issuance of a temporary Certificate of Registration

(a) If the sponsoring organization determines that the provider applicant is in substantial compliance with the applicable requirements of the Manual of Requirements, and provided that there are no serious or imminent hazards to the health, safety, and well-being of the children, the sponsoring organization shall issue a temporary Certificate of Registration.

(b) A temporary Certificate of Registration may be issued for a period not to exceed six months. The sponsoring organization may issue as many temporary Certificates of Registration as it deems necessary. However, a provider shall not operate pursuant to temporary Certificates of Registration for more than one year.

§ 3A:54-5.6 Registration fees

(a) At the time the regular Certificate of Registration is issued, the provider shall pay a non-refundable registration fee of $ 25.00 in the form of a check or money order made payable to the sponsoring organization.

(b) If the provider is issued a temporary Certificate of Registration, the registration fee shall be payable at that time, with no additional registration fee required upon the issuance of a regular Certificate of Registration.

(c) An additional registration fee shall not be required if a change in information on a current Certificate of Registration occurs before the expiration date of the current Certificate of Registration.

§ 3A:54-5.7 Renewal of a Certificate of Registration

(a) The regular Certificate of Registration shall be subject to renewal upon the expiration of the three-year registration period.

(b) The sponsoring organization shall send a renewal application packet to the provider no later than 90 days prior to the expiration of the current Certificate of Registration.

(c) No later than 45 days prior to the expiration of the current Certificate of Registration, the provider shall submit to the sponsoring organization:

1. A completed application form, as specified in N.J.A.C. 3A:54-5.2(a);

2. Health care provider's statement(s) for the provider, the alternate provider, and the provider assistant, if any, as specified in N.J.A.C. 3A:54-5.2(b); and

3. Written consent(s) for Child Abuse Record Information (CARI) background checks of the provider, the substitute provider, all members of the provider's household who are at least 14 years old, the provider assistant, and the alternate provider, if any, as specified in N.J.A.C. 3A:54-5.3(a)1.

(d) The provider shall permit and participate in an inspection prior to renewal of the Certificate of Registration.

(e) Prior to the renewal of a Certificate of Registration, the provider and alternate provider shall provide documentation of attendance at 20 hours of in-service, training other than first aid or CPR training, provided or approved by the sponsoring organization, during the last three-year registration period.

1. Distance learning training will be allowed up to a maximum of 10 hours of in-service training if the following criteria are met:

i. The training addresses a required topic and is accomplished through instruction and interaction between an instructor or the ability to contact the instructor by phone or e-mail to discuss training materials; and

ii. The provider maintains a record of the course curriculum and all documentation validating completion of the course.

2. Credit bearing courses offered by an accredited college or university that address required topics will be accepted, as long as the provider documents that credit was earned and can provide accreditation of the college program.

§ 3A:54-5.8 Denials, suspensions, revocations, non-renewals, and provider appeal procedures

(a) The sponsoring organization may deny an application for a Certificate of Registration or suspend, revoke, or refuse to renew a Certificate of Registration for good cause, including:

1. Failure to comply with the provisions of the Family Day Care Provider Registration Act or the requirements of the Manual of Requirements;

2. Use of fraud or misrepresentation in obtaining a Certificate of Registration or in the subsequent operation of the family child care home;

3. Any conduct or activity that adversely affects or presents a serious hazard to the health, safety, and general well-being of an enrolled child, or that otherwise demonstrates unfitness by a provider to operate a family child care home; or

4. A determination by the Department of Children and Families' Institutional Abuse Investigation Unit or Division that children in the home are at risk of harm.

(b) When a provider or applicant is found to be in violation of any of the provisions of (a) above, the sponsoring organization shall notify the provider or applicant of the violation(s) in writing and shall afford the provider or applicant an opportunity to abate the violation(s). If the provider or applicant fails to abate the violation(s), or commits the same or another violation subsequently, the sponsoring organization may deny the application or suspend, revoke or refuse to renew the Certificate of Registration.

(c) When the sponsoring organization proposes to deny an application or to suspend, revoke or refuse to renew a Certificate of Registration, the sponsoring organization shall give written notice to the provider or applicant, specifying the reason for such action, either by hand-delivery or by certified mail with return receipt requested.

1. The notice shall afford the provider or applicant an opportunity for a review before the sponsoring organization's appeals committee, except as specified in (c)2 below.

2. If the action specified in the notice is based on an investigation or substantiation by the Department of Children and Families of alleged child abuse or neglect, or on a criminal conviction, the sponsoring organization's appeals committee shall not review the matter, in keeping with the confidentiality requirements of the State Child Abuse and Neglect Law, N.J.S.A. 9:6-8.10a, and the rules of the Department of Law and Public Safety, as specified in N.J.A.C. 13:59-1.8. In such a case, the notice shall afford the provider or applicant an opportunity to appeal directly to the Office of Licensing, which will follow the procedures specified in (f) below.

3. The notice shall advise the provider or applicant of the provisions specified in (d) through (g) below.

4. If the provider or applicant does not appeal to either the appeals committee or the Office of Licensing, the action specified in the notice shall take effect.

(d) The sponsoring organization's appeals committee shall review within 15 days each appeal presented to it and shall afford the provider or applicant an opportunity to be heard. The appeals committee shall issue

a written report of its findings to the provider or applicant within five working days after completing its review.

(e) If the provider or applicant is not satisfied with the sponsoring organization's appeals committee's findings, the provider or applicant may appeal to the Office of Licensing, which will review the matter and, as appropriate, refer the matter through the Department of Children and Families to the Office of Administrative Law for an administrative hearing pursuant to the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) and the Uniform Administrative Procedure Rules (N.J.A.C. 1:1).

(f) If the provider or applicant does not want the matter reviewed by the sponsoring organization's appeals committee, or if the action specified in the notice is based on an investigation or substantiation by the Department of Children and Families of alleged child abuse or neglect, or on a criminal conviction, the provider or applicant may appeal directly to the Office of Licensing, which will review the matter and, as appropriate, refer the matter through the Department of Children and Families to the Office of Administrative Law for an administrative hearing.

(g) If the provider or applicant is not satisfied with the decision of the Department of Children and Families, the provider or applicant may appeal the final decision or action of the Department of Children and Families within 45 days from the date of service of the decision or notice of the action taken, to the Appellate Division of the Superior Court of New Jersey.

(h) As long as the Department of Children and Families determines that children are not at risk and no serious or imminent hazards exist, a provider who has requested an appeal, as specified in (d) through (f) above, may be permitted to operate if the provider complies with monitoring inspections by the sponsoring organization until a final decision is rendered as a result of the appeal.

(i) If the provider's Certificate of Registration is suspended, revoked or refused for renewal, the sponsoring organization shall ensure that the parent of each enrolled child is notified in writing within 10 days of the action.

(j) An applicant whose application has been denied, or a provider whose Certificate of Registration has been revoked or refused for renewal, shall be prohibited from reapplying for registration for one year from the date of the denial, revocation or refusal to renew. After the one-year period has elapsed, the provider or applicant may submit a new application for registration.

§ 3A:54-5.9 Special requirements to prevent child abuse and neglect

(a) When the Department of Children and Families determines that an imminent danger or hazard exists that threatens the health or safety of a child in a family child care home, the Office of Licensing may direct the sponsoring organization to deny an application or to suspend, revoke or refuse to renew a Certificate of Registration immediately.

(b) The Office of Licensing may institute a civil action in a court of competent jurisdiction for injunctive relief to enjoin the operation of a family child care home for good cause, including any imminent danger(s) or hazard(s) that threaten the health and safety of the children in the home.

(c) The Department of Children and Families, during the course of investigating an allegation of child abuse or neglect, may determine that corrective action is necessary to protect the children whenever:

1. The provider or another person in the home has been found by the Department of Children and Families to pose a risk of harm to children;

2. An allegation has been received by the Department of Children and Families that the provider or another person in the home has committed an act of child abuse or neglect; or

3. The provider or another person in the home has been convicted of an act of child abuse or neglect.

(d) Whenever the Department of Children and Families determines that such corrective action is necessary to protect the children in the home, the sponsoring organization shall ensure that the provider carries out the Department of Children and Families' recommendation for corrective action. Such corrective action may include:

1. Removal or suspension of the affected person from the home, or reassignment to other duties that do not involve contact with the children; or

2. Removal of the affected person from the home for a period of time extending from one hour prior to the arrival of the children until one hour after the children have left; or

3. Suspension of the provider's Certificate of Registration.

(e) Such removal, suspension or reassignment, as specified in (d) above, shall remain in effect until the results of the Department of Children and Families' investigation have been determined, and a final decision in the matter has been rendered by the Office of Licensing.

(f) If the allegation of child abuse or neglect is substantiated by the Department of Children and Families, the sponsoring organization shall deny the application for registration or suspend, revoke or refuse to renew the Certificate of Registration, as applicable, as specified in N.J.A.C. 3A:54-5.3(e) and (f).

§ 3A:54-5.10 Provider reporting requirements

(a) The provider shall verbally notify the Department's State Central Registry at 1-877-NJ-ABUSE (1-877-652-2873) immediately whenever there is reasonable cause to believe that a child has been or is being subjected to any kind of child abuse or neglect by any person, pursuant to N.J.S.A. 9:6-8.10.

(b) The provider shall report the following incidents to the sponsoring organization as soon as possible, but by no later than the beginning of the sponsoring organization's next working day:

1. Any injury that results in the admittance of a child to a hospital or when care is provided by any medical facility while in the provider's care;

2. The death of a child while in the provider's care;

3. Any damage to the provider's home that affects the provider's compliance with the requirements of the Manual of Requirements;

4. Any criminal conviction(s) of the provider, the substitute provider, a member of the provider's household who is at least 14 years old, and the alternate provider and the provider assistant, if any, as specified in N.J.A.C. 3A:54-5.2(a)10;

5. A change of residence by the provider; and

6. The termination of all family child care services by the provider.

(c) A Certificate of Registration issued by the sponsoring organization to a provider is the property of the State of New Jersey. The provider shall surrender the Certificate of Registration to the sponsoring organization immediately if any of the following occurs or becomes effective:

1. The provider voluntarily closes the family child care home;

2. The registration is revoked;

3. The registration is suspended; or

4. The provider has not applied for a renewed registration.

§ 3A:54-5.11 Provider record requirements

(a) The provider's records shall be open for inspection by authorized representatives of the sponsoring organization and of the Department of Children and Families.

(b) The provider shall maintain on a file a signed statement from each parent, affirming receipt of the Information to Parents statement, as specified in N.J.A.C. 3A:54-6.21(a).

(c) The provider shall maintain an individual record for each child in care. This record shall include:

1. The child's full name, address and birth date;

2. Name, address, and telephone number of each parent;

3. Name, address and telephone number of each parent's place of employment;

4. Name, address and telephone number of one or more persons designated by the parent(s) to be called in case of emergency when a parent cannot be reached;

5. Name, address and telephone number of the child's health care provider;

6. The child's allergies to medication or drugs, if applicable;

7. The name of the parent's hospitalization plan and number or medical assistance plan, if applicable;

8. The parent's signed authorization for the child's emergency medical treatment;

9. The child's date of enrollment in and date of withdrawal, when applicable, from the family child care home;

10. Results of the health examination for each child, as specified in N.J.A.C. 3A:54-6.8(a);

11. An immunization record for each child, as specified in N.J.A.C. 3A:54-6.8(b)3;

12. Authorization for a school age child to leave the provider's premises, if applicable, as specified in N.J.A.C. 3A:54-6.17(b);

13. Authorization for the provider to transport an enrolled child, if applicable, as specified in N.J.A.C. 3A:54-6.7(c)1;

14. Authorization for a child to use a pool or other body of water, if applicable, as specified in N.J.A.C. 3A:54-6.6(d);

15. A record of any accidents and injuries sustained by a child, as specified in N.J.A.C. 3A:54-6.10(d); and

16. A record of visitors and volunteers in the home during the scheduled operating hours.

(d) The emergency contact information listed in (c)1 through 8 above shall be made available to a health care provider, hospital or emergency care unit as appropriate in the event of a child's illness or injury while in the provider's care.

(e) Whenever the provider leaves the home with the child(ren), the provider shall have the emergency contact information in his or her possession.

(f) The provider shall ensure that daily attendance records are maintained for children, which identify the hours of the children's attendance each day, including the time the child arrives and departs from the home.

(g) The provider shall maintain the records noted above for at least one year following the discontinuance of child care services for each child.

§ 3A:54-6.1 Maximum number of children

(a) The provider shall care for no more than five children at any one time, except as specified in (b) below.

(b) The provider shall be permitted to care for up to three additional children, up to a maximum of eight children at any one time, only if:

1. The additional children reside with the provider and are below six years of age. Children six years of age or older who reside with the provider shall not be included in the limit of eight children; or

2. The additional children reside with the alternate provider, the substitute provider or the provider assistant, and receive care in the family child care home for no payment. The alternate provider, the substitute provider or the provider assistant shall be present when any child who resides with that person is present.

(c) The sponsoring organization may restrict the maximum number of children who may be in care on a specific date or time in a family child care home when:

1. The useable indoor and outdoor space does not permit safety and comfort;

2. There is insufficient equipment to meet the needs of the children;

3. The number and ages of the provider's own children limit the ability to provide adequate supervision;

4. There are additional responsibilities of the provider to care for another household member who may require special attention or care including, but not limited to, an elderly person or a child with a serious medical, physical, emotional or behavioral condition;

5. There are restrictions regarding the fire, zoning, health, environmental or other codes; or

6. Other factors that may cause a risk to a child's health, safety or welfare, such as damage to the home, construction or renovations.

§ 3A:54-6.2 Ages of children

(a) The provider shall care for no more than the following numbers of infants and toddlers unless a second caregiver is present:

1. Three children below one year of age; or

2. Four children below two years of age, of whom no more than two shall be below one year of age.

(b) Both the provider and a second caregiver (either the alternate provider, substitute provider or provider assistant) shall be present whenever one or more children below six years of age are present in addition to the maximum number of infants or toddlers specified in (a) above.

(c) All children present who are below six years of age, including those who reside with the provider, alternate provider, substitute provider or provider assistant, shall be included in the provisions in (b) above for determining when a second caregiver shall be present.

§ 3A:54-6.3 Building and equipment

(a) The provider shall ensure that:

1. Adequate floor space is available for the children's activities;

i. The provider shall arrange the play space and the furniture within the family child care home in order to allow adequate room for active and quiet play and for individual and group activities.

2. Program space shall not include the food preparation areas within the kitchen, bathrooms, hallways, stairways, closets, laundry rooms or areas, furnace rooms and storage spaces;

3. The temperature of rooms used by children is maintained at a minimum of 65 degrees Fahrenheit;

4. Floors, walls, ceilings, furniture, equipment and other surfaces are kept clean and in good repair;

5. Adequate ventilation is provided by means of open windows, fans, air conditioning or other mechanical ventilation systems;

6. Warm and cold running water are available;

7. Working indoor toilets are easily accessible to children;

8. Play equipment, materials, and furniture for indoor and outdoor use are of sturdy and safe construction, non-toxic, easy to clean, and free of hazards that may be injurious to young children;

9. Furniture, appliances, or equipment with tipping hazards, such as chests, bookshelves, and televisions are secured;

10. Any hazardous equipment is made inaccessible to children or removed until rendered safe or replaced;

11. Bathtubs, buckets, and other containers of water are emptied immediately after use;

12. Electricity is in service in the home;

13. The home contains sufficient furniture and equipment to accommodate the needs of the children in care;

14. A telephone shall be in service in the home at all times when children are in care; and

15. Pesticides for indoor and outdoor use shall be used according to the manufacturer's directions and in keeping with the applicable provisions specified in N.J.A.C. 7:30-10, Pesticide Control Code.

i. No pesticides shall be applied while children are present.

ii. Before applying pesticides, all toys and play equipment shall be removed from the area.

iii. Children shall be removed from the area until the pesticide has dried or as long as recommended on the label.

§ 3A:54-6.4 Emergency preparedness

(a) The provider shall maintain and post in a prominent location a written plan for the emergency evacuation, relocation, shelter-in-place, or lockdown of the children in the event of natural or civil disaster or other emergency, which shall include:

1. The location of the first aid kit and any additional first aid supplies;

2. An anticipated relocation site able to provide adequate, safe shelter for providers and enrolled children;

3. The hospital or clinic to which injured or ill children will be taken;

4. The telephone numbers for obtaining police, fire, ambulance, and poison control services; including the National Poison Emergency Hotline at (800) 222-1222;

5. The location of written authorization from parent(s) for emergency medical care for each child;

6. A diagram showing how the home is to be evacuated in case of emergency;

7. Procedures for notifying each child's parent of the relocation, shelter-in-place, or lockdown, including the procedures for communicating with each parent before and during the emergency and ensuring family reunification after the emergency;

8. The local law enforcement agency or emergency management office to be notified of the provider's identifying information as required in (b) below;

9. The procedure for obtaining emergency transportation for children, including those with special needs; and

10. Procedures to address the needs of the individual children; such as assistance for infants, toddlers, and children with special needs or chronic medical conditions.

(b) In the event of an evacuation, shelter-in-place, or lockdown, the registered family child care provider shall notify the appropriate local law enforcement agency or emergency management office of:

1. The name of the family child care provider;

2. The location of the family child care home;

3. The number of children, age, and special needs, if any, of each child enrolled and each child residing in the home;

4. The number of adults in the home;

5. The need for emergency transportation;

6. The location to which children will be evacuated;

7. The plan for shelter-in-place;

8. The plan for a lockdown; and

9. The plan for reuniting each child with his or her parents.

(c) The provider shall practice fire, shelter-in-place, lockdown, and evacuation drills with each child from all exit locations at varied times of day and during varied activities, including nap-time. Documentation of the fire, shelter-in-place, lockdown, and evacuation drills shall include the type of drill simulated, date, start time, total amount of time taken to evacuate the home for the evacuation drill, total amount of time taken after warning is issued to direct movement of providers and children to location for shelter-in-place and lockdown drills, and the number of children and providers present for each drill.

1. When multiple shifts of care are provided, such drills must be conducted monthly during each shift of care;

2. The provider shall ensure that all children present are evacuated from the home within three minutes during each fire drill;

3. Outdoor assembly areas shall be located a safe distance from the home as to avoid interference with fire department operations in the event of a fire;

4. The provider shall have a warning system (for example, loud bell or whistle), to alert occupants of the home of an emergency or drill;

5. The provider shall implement and document a monthly practice for the evacuation and relocation drills;

6. The provider shall implement and document two shelter-in-place and two lockdown drills per year; and

7. The provider shall maintain a 72-hour emergency supply, including food, water, medications (if applicable), first aid, and other safety equipment, as needed, to allow for the protection of the health and safety of children, in the event parents are unable to pick up their children due to a disaster. Food supplies shall be non-perishable and of sufficient quantity for all children for an overnight stay.

(d) The provider shall ensure that:

1. At least one working smoke detector is installed on each floor of the home. If smoke detectors operate from electric power within the home, such detectors must have a battery-powered back-up energy source;

2. All interior doors that can be locked from the inside have a means to be unlocked from the outside in case of emergency;

3. All heating or cooling devices are adequately vented, protected by guards or barriers and kept clear of combustible materials;

4. Wood or wood pellet, coal burning stoves, and fireplaces have protective barriers and are not accessible to children;

5. Portable electric space heaters and portable liquid fuel-burning heating appliances are not in use when children are in care;

6. Radiators and pipes located in rooms occupied by children are covered when the heating system is in use; and

7. Stairways, hallways, and exits from rooms and from the home are unobstructed, except for safety barriers.

8. Each room used for child care has at least two means of egress.

9. Egress doors from the residence shall be readily operable from the egress side without the operation of a key.

10. A means of egress shall be free of obstructions that would prevent its use, including the accumulation of ice and snow.

11. The second means of egress may be an unobstructed, operable window not less than 820 square inches and large enough to allow all adults and children to escape.

12. The provider shall not allow rest and sleep in a basement unless there are two approved means of egress that meet the provisions of the New Jersey Uniform Construction Code (NJUCC) and the New Jersey Uniform Fire Code as specified in N.J.A.C. 5:70.

13. Security bars, when present, must be hinged with a quick release mechanism inside the home that requires one motion to operate.

14. Every stairway is maintained free of obstructions and provides safe passage.

15. Stairways within the exits with four or more steps have a railing;

16. Electrical cords are maintained in good condition;

17. Major appliances shall be plugged directly into electric outlets; and

18. Approved carbon monoxide detectors shall be located and installed on every level in the family child care home in accordance with the provisions of the State codes and guidelines.

§ 3A:54-6.5 General safety

(a) The provider shall ensure that:

1. The home and its furnishings present no hazard to the health and safety of the children in care;

2. All items that may be hazardous to children, including medicines, poisonous plants, toxic substances, tobacco products, matches and sharp objects, are stored out of the reach of children;

3. Safety barriers are installed to prevent children from falling from stairs, ramps, balconies, porches (when used for child care activities), elevated play areas, and any areas that subject children to falls.

4. Gates shall be provided at the top and bottom of each stairway, as appropriate, in areas of the home where infants and toddlers are in care.

5. Gates at the top of the stairs shall be hardware mounted to the wall for stability;

6. All electrical outlets that are accessible to the children are covered with safety caps, ground fault interrupters or have safety outlets installed;

7. A working flashlight is available for emergency lighting;

8. All firearms, other weapons (such as bb guns, paintball guns, hunting knives, bows, swords, and martial arts weapons), and ammunition are stored in locked areas out of the reach of children;

9. The home shall be free of exposed lead-based paint surfaces, which are flaking, peeling or chipped;

10. Unfinished areas of the home including, but not limited to, attics, basements, and additions shall not be used for the care of children;

11. Portable fans shall be kept out of reach of children; and

12. The use of trampolines by enrolled children is prohibited, and shall be inaccessible to the children during operating hours.

§ 3A:54-6.6 Outdoor space

(a) The provider shall ensure that an adequate, safe outdoor play area is available either adjacent to or within walking distance of the home.

(b) Swimming pools, and other containers and natural bodies of water at the family child care home shall be physically inaccessible to children, except when they are supervised as specified in (d) below and all local ordinances that apply to a swimming pool or natural bathing area must be adhered to.

(c) Spa pools, hot tubs, and wading pools shall be inaccessible to children and their use shall be prohibited.

(d) The following supervision requirements shall apply whenever enrolled children use a pool or other container or body of water at the family child care home or any other location:

1. For pools and other bodies of water that are 24 inches or more in depth:

i. One person at least 18 years old shall directly supervise up to two children;

ii. Two people, one of which is at least 18 years old shall directly supervise three or more children; and

iii. The provider shall maintain a ring buoy with a rope, extension pole, or other device that can be used to rescue a swimmer in distress;

2. For pools and other containers or bodies of water that are less than 24 inches in depth, one person at least 18 years old shall directly supervise all the children. When the number of children using the pool requires a second caregiver to be present, as specified in N.J.A.C. 3A:54-6.1(b)2 or 6.2(b), both caregivers shall directly supervise the children; and

3. At least one person providing supervision shall be certified in cardiopulmonary resuscitation (CPR).

(e) The provider shall obtain written consent from the parent(s) of each enrolled child before the child uses a pool or other body of water as specified in (d) above.

(f) The provider shall ensure that each child riding a bicycle, using roller skates, inline skates, skate boards or who is a passenger on a bicycle, or towed by a bicycle, wears a safety helmet, as specified in the State Bicycle Helmet Law, N.J.S.A. 39:4-10.1.

(g) The provider shall ensure that outdoor equipment, such as swings, slides and climbing apparatus:

1. Are installed and in keeping with the manufacturer's specifications and instructions; and

2. Are in good repair and that:

i. Openings do not pose entrapment hazard;

ii. Equipment and apparatus shall be used only by the children for whom it is developmentally appropriate; and

iii. All fencing shall be maintained in good condition.

(h) All garbage and refuse will be collected, stored and disposed of in a manner, which will not attract rodents or insects.

§ 3A:54-6.7 Transportation and trips

(a) Whenever the provider transports enrolled children, the provider shall comply with all applicable State laws and rules regarding:

1. The use of infant seats, child passenger restraint systems, and seat belts pursuant to N.J.S.A. 39:3-76.2a et seq.;

2. The possession of a valid automobile driver's license and valid vehicle inspection sticker; and

3. The possession of vehicle liability insurance.

(b) The provider shall ensure that the parents of all enrolled children are informed when their children are taken on walks away from the home. The provider may utilize a blanket permission slip for taking children on walks only if:

1. Walks are within the provider's neighborhood;

2. The provider makes arrangements for the handling of visits or calls from parents either by:

i. Having someone remain at the home; or

ii. Utilizing a cellular telephone or telephone answering machine, and posting a notice on the entrance door of the home to inform parents of the children's location;

3. The route of the walk involves no safety hazards; and

4. The walk involves no entrance into a facility unless the facility has been indicated on the blanket permission slip.

(c) The provider shall inform the parent(s) of enrolled children in advance of any field trip(s), outing(s) or special event(s) involving the transportation of children away from the home, including whether a school bus, school vehicle or private passenger vehicle is used, and whether the driver will be a staff member, a parent or another person. Before taking a child on such a field trip, outing or special event, the provider shall either:

1. Secure individual permission slips signed by a parent for his or her child(ren) for each proposed trip, outing or special event;

2. Post a notice of a proposed individual field trip, outing or special event in a place of prominence within the home, on which a parent shall be asked to sign consent for his or her child to attend; or

3. Issue to every parent a written schedule of all field trips, outings or special events to be taken during any given time frame (that is, weekly, monthly, yearly). A parent shall be asked to sign this schedule indicating his or her consent for any or all field trips, outings or special events listed.

(d) The provider shall maintain on file a record of blanket permission slips for walks and signed individual permission slips for field trips, outings or special events.

§ 3A:54-6.8 Health examinations for children

(a) Each child shall have had a health examination performed by a health care provider within:

1. Six months prior to or within one month following admission to the home for children who are 2 1/2 years of age or younger; or

2. One year prior to or within one month following admission to the home for children who are above 2 1/2 years of age.

(b) For each child not enrolled in a public school or private school, the provider shall maintain on file at the family child care home a Universal Child Health Record (Department of Health Form CH-14), or its equivalent, updated annually, and a care plan for children with special health care needs, as specified in N.J.A.C. 3A:54-6.18(b)1, if applicable.

(c) A record of the health examination shall be provided by the child's parent to the provider upon or within one month following admission to the home. The record shall include:

1. The name and address of the health care provider;

2. A statement by the health care provider indicating, when applicable:

i. Information on any condition or handicap affecting the child; and

ii. Any recommendations for needed medical treatment or special requirements as to diet, rest, allergies, avoidance of certain activities and other care;

3. An up-to-date immunization record in accordance with the recommended immunization schedule established by the Advisory Committee on Immunization Practice of the Center for Disease Control and Prevention, as provided by the New Jersey Department of Health at N.J.A.C. 8:57-4. The immunization record shall be appropriate to the child's age or shall document that the child is under a prescribed medical program to obtain immunizations and a timetable for doing so; and

4. For children enrolled in a public or private school, the provider shall obtain a written statement from each child's parent indicating:

i. That the child is in good health and can participate in the normal activities of the program; and

ii. Any conditions or specific needs that may require special accommodations.

(d) If immunizations are not given to a child for medical reasons, the provider shall require the parent to submit a written statement from a health care provider attesting to:

1. The reason the immunization is medically contraindicated; and

2. The specific time period that the immunization is medically contraindicated.

(e) A child shall be exempted from a physical examination, immunization or medical treatment if the parent objects thereto in a written statement submitted to the provider, signed by the parent, explaining

how the examination, immunization or medical treatment conflicts with the child's exercise of bona fide religious tenets or practices.

(f) The immunization exemption may be suspended during the existence of a health emergency, as determined by the Commissioner of the State Department of Health.

(g) After admission, each child shall have an annual physical health examination, including age-appropriate screenings and up-to-date immunizations. Such examination shall be performed by a health care provider within the preceding year period.

(h) Children who are in foster care or experiencing homelessness as defined by the McKinney-Ventro Act can receive child care services while parents or guardians are taking necessary actions to comply with immunization requirements. Upon, or within one month following, admission to the home, the parents or guardians shall have an up-to-date immunization record or provide a written plan for catching up with immunizations, if applicable.

§ 3A:54-6.9 Sick children

(a) The provider shall inform the sponsoring organization and the parents of enrolled children regarding the circumstances under which:

1. Sick children will be admitted to or excluded from the home; and

2. Medication will or will not be administered to children.

(b) The provider shall follow policies and procedures recommended by the sponsoring organization if the provider chooses to:

1. Care for sick children in the home; or

2. Administer medication to children.

(c) The provider shall inform the parents of all enrolled children when any person in the home has a communicable disease as indicated by the New Jersey Department of Health as requiring such notification (a list of the communicable diseases and the reporting requirements can be found on New Jersey Department of Health website at www.state.nj.us/health). The sponsoring organization shall make such information available to the providers.

§ 3A:54-6.10 Injury to a child while in the provider's care

(a) When an incident resulting in injury to a child occurs while in the provider's care, the provider shall take the necessary action to protect the child from further harm and arrange for any necessary emergency medical attention. The provider shall notify the child's parent(s):

1. Immediately in the event of an injury that requires professional medical attention; or

2. By the end of the operating day, if the injury does not require professional medical attention.

(b) Basic first aid supplies shall be in the home, and shall be stored out of children's reach but readily accessible to the provider, and shall minimally include: adhesive tape, band-aids, gauze pads, gauze roller bandage, disposable, non-latex gloves, cold pack, scissors, tweezers and thermometer.

(c) Telephone numbers of the nearest police department, fire department, ambulance service or rescue squad, and poison control center, the provider's address, and the telephone number through which the provider can be reached shall be posted in a readily accessible area of the home.

(d) The provider shall maintain on file a record of injuries sustained by a child while under the provider's care that receive professional medical attention. The record shall include:

1. The name of the injured child;

2. The date, time and location of the incident;

3. A written description of the:

i. Incident;

ii. Injury to the child;

iii. Follow-up action taken by the provider, including application of first aid and consultation or treatment by a medical professional, if applicable; and

iv. Names of witnesses to the incident.

(e) The provider shall provide to the child's parent a copy of the record specified in (d) above by the end of the next working day after the incident or injury.

§ 3A:54-6.11 Environmental sanitation and personal hygiene

(a) The provider shall ensure that children wash their hands with soap and running water as follows:

1. Upon arrival for the day;

2. Before eating;

3. Immediately after using the toilet;

4. Immediately after coming into contact with blood, saliva, and other body secretions or fluids; and

5. After caring for animals or their equipment or after coming in contact with an animal's body secretions.

(b) The provider shall ensure that an infant's hands are washed with soap and water immediately after a diaper change.

(c) The provider and all other adults caring for children in the home shall wash their hands with soap and running water immediately:

1. Upon arrival for the day and after breaks;

2. Before and after preparing or serving food or beverages;

3. Before and after eating or feeding a child;

4. Before and after brushing or helping a child brush teeth;

5. Before and after giving medication or applying an ointment or cream in which a break in the skin (for example, sores, cuts, or scrapes) may be encountered;

6. Before and after playing with children in water (including swimming);

7. Before and after diapering a child;

8. After toileting;

9. After assisting a child in toileting;

10. After contact with blood, diarrhea, vomit, or other body secretions or fluids; and

11. After caring for animals or their equipment or after coming in contact with an animal's body secretions.

(d) The provider shall ensure that each child is supplied with:

1. A clean towel and washcloth for his or her exclusive use; or

2. Disposable towels and washcloths.

(e) The provider shall ensure that:

1. A change of clothing is provided for each child;

2. A child's clothing is changed when wet or soiled; and

3. Each child's personal hygiene items, such as toothbrushes, hairbrushes, and combs, are stored separately from those of others.

(f) The provider shall use disposable rubber gloves, which shall be discarded after each use, when cleaning up blood, vomit, urine, fecal matter or other body secretions.

(g) The provider shall ensure that areas in the home, bedding, furniture, carpeting and clothing that come into contact with blood, vomit, urine, fecal matter or other body or animal secretions are cleaned with soap and water and disinfected with a commercially prepared disinfectant. This solution shall be used in accordance with label instructions.

(h) The following equipment items or surfaces shall be cleaned with soap and water and disinfected with commercially prepared disinfectant after an incident, as specified in (g) above occurs:

1. Toilet seats;

2. Sinks and faucets;

3. Mops that were used in the clean-up;

4. Washcloths, towels and sponges that were used in the clean-up; and

5. Thermometers.

(i) Toys that children have placed in their mouths or that are otherwise contaminated by body secretion or excretion shall be set aside until they are cleaned by hand with water and detergent, rinsed, sanitized, and air-dried or in a mechanical dishwasher.

§ 3A:54-6.12 Activities for children

(a) Activities for the children shall be structured to include:

1. Active and quiet play;

2. Indoor and outdoor play;

3. Rest or sleep; and

4. Meals and snacks.

(b) The provider shall supply safe toys, play equipment, and creative materials to ensure each child the opportunity to participate in a variety of activities appropriate for the ages, interests, and number of children present.

1. Programs for pre-school age children shall offer materials from the following categories:

i. Dramatic play and language development (for example, dress-up clothes, puppets, books, play telephones and unbreakable dishes);

ii. Visual and small muscle development (for example, mobiles, unbreakable mirrors, blocks, rattles, puzzles, sorting and stacking toys);

iii. Auditory development (for example, records, musical instruments and tapes);

iv. Creative expression (for example, clay, non-toxic paint, paper and blunt scissors); and

v. Large muscle development (for example, swings, balls, bicycles, large boxes and wagons).

2. Programs for infants and toddlers shall include the applicable items for (b)1 above, and a daily routine adapted to the individual needs of each infant and toddler that fits, as much as possible, into the schedule set up by the parent.

i. Infants shall have age-appropriate, supervised tummy time at least twice a day; and

ii. Infants shall have developmentally appropriate outdoor activities and/or carriage/stroller rides daily, weather permitting.

3. The provider shall maintain on file a written schedule of daily activities and provide a copy for the parents.

(c) The provider shall ensure that children are supervised while in swings, high chairs or stationary activity centers and do not remain in such equipment for more than 30 consecutive minutes; and that the majority of every child's waking hours are spent out of cribs and playpens in a safe, clean place where he or she may move and explore freely.

(d) The provider shall plan the day to allow for time to offer each child individual attention, affection and comfort.

(e) Television, computers, and other video equipment shall be used with discretion and shall not be used as a substitute for planned activities.

§ 3A:54-6.13 Rest and sleep

Providers shall comply with the rest and sleep requirements set forth at N.J.A.C. 3A:52-6.4, including provisions related to safety standards for cribs and sleeping surfaces.

§ 3A:54-6.14 Food and nutrition

(a) The provider shall ensure that all enrolled children receive nutritious meals that have been prepared by:

1. The provider;

2. The parent(s) of an enrolled child; or

3. Another source, such as a caterer who is licensed, registered, certified, or otherwise approved, as appropriate by the local or county health department or State Department of Health, as applicable.

i. If the provider chooses to have parents provide food, the provider shall have a supply of food at the home for any child whose parent forgets.

(b) The provider shall ensure the provision of:

1. Breakfast for all children who:

i. Have not eaten breakfast; and

ii. Are present during the hours of 7:00 A.M. to 10:00 A.M.;

2. Lunch for all children who:

i. Have not eaten lunch;

ii. Are present during the hours of 10:00 A.M. to 1:00 P.M.; and

iii. Are under the provider's care for at least five consecutive hours;

3. Dinner for all children who:

i. Have not eaten dinner;

ii. Are present during the hours of 5:00 P.M. to 7:00 P.M.; and

iii. Are under the provider's care for at least five consecutive hours; and

4. A snack for all children who are under the provider's care for at least three consecutive hours, or who have arrived from school.

(c) The provider shall consult with each child's parent(s) regarding the feeding schedule, nutritional needs and introduction of new foods for each child.

(d) Clean and sanitary drinking water shall be made available to the children at all times.

§ 3A:54-6.15 Bottle and cup feeding

(a) Formula, prepared from concentrate or in an opened container, and expressed breast milk shall be refrigerated.

(b) Bottles and sipping cups shall be clearly identified for use by a specific child.

(c) When a child is feeding, the bottle shall not be propped at any time.

§ 3A:54-6.16 Toilet training and diaper changing

(a) The provider shall discuss and agree upon toilet training methods with the parent(s) of each child being toilet trained.

(b) The provider shall ensure that:

1. Diapers are changed promptly when wet or soiled;
2. A clean nonporous surface or pad is used for diaper changes and sanitized after each use;
3. Caregivers wash their hands thoroughly with soap and warm water after each diaper change;
4. Sufficient quantities of clean diapers are available; and
5. A container with a lid for soiled diapers is used.

(c) The diaper changing area and potty chairs shall be cleaned and disinfected after each use.

§ 3A:54-6.17 School age children

(a) The provider shall give each school age child opportunities to:

1. Participate in outdoor, active play;

2. Rest, relax and enjoy quiet socialization;

3. Complete homework assignments, if necessary; and

4. Participate in indoor play, table games, cooking and arts and crafts activities.

(b) A school age child shall be permitted to leave the provider's supervision only with written permission from the child's parent(s).

(c) The provider and the parent(s) shall discuss and agree upon:

1. The child's use of the telephone, television, computer and electronic devices; and

2. Time allocated for the child's homework assignments.

§ 3A:54-6.18 Children with special needs

(a) When a provider identifies or suspects an enrolled child as having a developmental delay or disability, the provider shall inform the child's parent and contact the sponsoring organization for technical assistance in meeting the child's needs.

(b) When the provider enrolls a child with special needs:

1. The provider shall request that the parent provide a written up-to-date special needs care plan completed by the child's primary health care provider or any other person who has evaluated or treated the child with input from the parent or guardian regarding the specialized care or accommodations that a child with special needs requires;

2. The special needs care plan shall include the following:

i. A list of the child's diagnoses;

ii. Contact information for the primary care provider and any relevant specialists;

iii. Medications to be administered on a scheduled basis;

iv. Medications to be administered on an emergent basis with clearly stated parameters of signs and symptoms that warrant giving the medication written in plain language;

v. Procedures to be performed;

vi. Any allergies;

vii. Dietary modifications;

viii. Activity modifications;

ix. Environmental modifications;

x. Stimulus that initiates or precipitates a reaction or series of reactions (triggers to avoid);

xi. Symptoms for caregivers to observe; and

xii. Emergency response plan, if the child has an emergency.

3. The provider shall make reasonable accommodations to serve a child with special needs unless such accommodations impose an undue hardship on the family child care home. If the accommodations cause undue hardship, written notification shall be provided to the parent and the sponsoring organization regarding the reasons for not enrolling the child. A copy of which shall be maintained by the provider.

§ 3A:54-6.19 Supervision

(a) The provider shall be responsible for supervising the children and ensuring their safety at all times, including awareness and responsibility for the ongoing activity of each child. The provider shall be near enough to respond when redirection or intervention strategies are needed. Children who are asleep shall be within hearing and easy access of the provider, alternate provider, provider assistant, or substitute provider.

(b) The provider shall not engage in any activity while on duty during operating hours that distracts his or her attention from providing family child care services. Such activities shall include, but not be limited to, other employment, volunteer services, recreation, hobbies or frequent or prolonged socialization with adults.

(c) The provider shall not leave the premise of the family child care home unless an approved caregiver is present with the children.

(d) The provider shall be scheduled to care for children at least 75 percent of the home's operating hours. When a provider and an alternate provider share child care responsibilities, the provider shall be scheduled to care for children at least 50 percent of the home's operating hours.

(e) When a family child care home operates 24 hours a day, an alternate provider is required. No caregiver may work more than 16 consecutive hours.

(f) If the provider cannot be present, the designated substitute or the alternate provider, if any, as specified in N.J.A.C. 3A:54-5.2(a)6, shall assume the provider's responsibility for supervision of the children.

1. The substitute provider and the alternate provider, if any, shall be familiar with all applicable requirements of the Manual of Requirements.

2. Prior to caring for children, the provider shall provide and document orientation training to newly hired substitute provider(s) and the alternate provider, if any, including the following:

i. The provider's policies and procedures;

ii. The names and ages of all enrolled children;

iii. Any special needs or health concerns of enrolled children;

iv. Any nutrition needs of enrolled children;

v. The planned program of activities;

vi. The location of emergency contact information;

vii. Procedures for emergency preparedness; and

viii. Mandatory reporting of child abuse and neglect.

3. When the provider is absent for six or more consecutive weeks and enrolled children continue to receive care in the home, another registered provider or the alternate provider, if any, shall temporarily assume the provider's responsibility for operating the home.

(g) When a provider assistant is present, the provider shall ensure that:

1. The provider assistant and the provider are involved in direct interaction with the children for a major portion of the day;

2. The provider assistant is familiar with all applicable requirements of the Manual of Requirements;

3. An assistant under 18 years of age is not left alone with the children except in an emergency; and

4. An assistant under 16 years of age:

i. Does not work in the home at any time when his or her school is in session;

ii. Does not work an excessive number of hours to the detriment of his or her health or schoolwork; and

iii. Obtains working papers as required by State law.

(h) No provider, alternate provider, substitute provider, assistant provider, if any, nor any other person in the home or while transporting children shall:

1. Consume alcoholic beverages when supervising children or during operating hours; or

2. Smoke while supervising children or during operating hours.

(i) No provider nor any other person shall supervise children when he or she:

1. Has a communicable disease or illness, as specified in the chart in N.J.A.C. 3A:54-6.9(c); or

2. Appears to be physically, emotionally or mentally impaired, or appears to have a drug-induced or alcohol-induced condition that would endanger the health, safety or well-being of a child in the home.

(j) Children shall be released from the home only to:

1. The child's parent(s); or

2. A person designated by the parent(s) in writing or by telephone.

(k) When a child's parent or person designated by the parent(s), as specified in (g)2 above, appears to be physically, emotionally or mentally impaired, or appears to have a drug-induced or alcohol-induced condition that would endanger the health, safety or well-being of the child, the provider shall:

1. Attempt to prevent the child's release to such an impaired individual; and

2. Attempt to contact the child's other parent or an alternate person authorized by the parent(s).

(l) The provider shall call the Department's State Central Registry at 1-877-NJ-ABUSE (1-877-652-2873) if:

1. The provider's attempts to prevent the child's release to an impaired person, as specified in (k)1 above, are unsuccessful; or

2. The provider's attempts to make alternative arrangements for the child's care, as specified in (k)2 above, are unsuccessful and the provider cannot continue to care for the child in the home.

§ 3A:54-6.20 Guidance and discipline

(a) The method of guidance and discipline used by the provider shall:

1. Be positive;
2. Be consistent with the age and needs of the child; and
3. Help the child maintain self control.

(b) The provider shall not subject a child to:

1. Humiliating or frightening treatment;
2. Loud, profane or abusive language;
3. Derogatory remarks about the child or the child's family;
4. Spanking, hitting, kicking, biting, shaking or inflicting physical pain in any manner;
5. Deprivation of food, sleep, or toilet access;
6. Force feeding;
7. The withholding of emotional responses or attention;
8. Long periods of enforced silence;
9. Physical or chemical restraints; or
10. Isolation in any area that cannot be seen and supervised by the provider.

(c) Napping, toilet training or eating shall not be associated with punishment.

(d) The provider and the child's parent(s) shall discuss and agree upon positive methods of discipline, in accordance with the provisions of (a), (b), and (c) above.

§ 3A:54-6.21 Communicating with parents

(a) The provider shall supply each parent of an enrolled child with an Information to Parents statement that has been supplied to the provider by the sponsoring organization.

(b) The provider shall discuss the child's daily activities and routines with each child's parent(s) upon enrollment and periodically thereafter.

(c) The provider shall inform each child's parent(s) of the names of the provider assistant and the alternate provider, if any, the substitute provider and any other persons caring for children in the home.

(d) The provider shall inform each child's parent(s) upon enrollment about:

1. The presence of pets in the home; and

2. Smoking by any person in the home.

(e) The provider shall permit the parents of enrolled children to visit the home at any time when enrolled children are present. Parents may be restricted to visit only those areas of the home designated for family child care.

(f) The provider shall inform parents that they may request the sponsoring organization to provide technical assistance or referral to appropriate community resources.

(g) The provider shall develop and follow a written policy on the use of social media including, but not limited to, social networking sites, websites, the use of e-mail, text messages, and/or other electronic means of communication with staff, household members who are present during the family child care home's operating hours, and parents.

1. The social media policy shall include:

i. The types of social media that are used at the family child care home;

ii. The methods and devices the provider will use for parent communication;

iii. Guidelines for appropriate conduct by each alternate provider, substitute provider, and provider assistant, including, but not limited to, what methods will be used to ensure private e-mails, phone numbers, addresses, and other personal information pertaining to enrolled children are not shared or posted; and

iv. Guidelines for parents.

2. The provider shall distribute a copy of the social media policy to the parent or guardian of each enrolled child and to each alternate provider, substitute provider, and provider assistant and secure and maintain on file, a record of each parent's or guardian's and each alternate provider's, substitute provider's, and provider assistant's signature attesting to receipt of the policy.

§ 3A:54-6.22 Night time child care

(a) The provider, substitute or alternate provider shall be awake and alert to meet the needs of the children at all times.

(b) If a child is in the care of the provider after 6:00 P.M., the provider shall establish a bedtime routine, in consultation with that child's parent(s) or guardian(s) and taking into account the age and developmental needs of the child and the time of the child's scheduled pick-up from the home.

(c) The provider shall provide, or shall ensure that each enrolled child's parent(s) or guardian(s) provide, appropriate clothing for the child to wear while sleeping;

(d) If a provider has one or more bunk beds for the use of enrolled children, the provider shall ensure that no child under seven years of age is placed in a top bunk, and the bunk bed meets requirements as specified in N.J.A.C. 3A:54-6.13(h).

(e) The provider shall ensure that no enrolled child shares a sleeping room with an adult.

(f) The provider shall ensure that all beds, cots, cribs and mattresses have firm surfaces and meet the standards established by the Consumer Product Safety Commission, which can be found at http://www.cpsc.gov/.

(g) Breakfast shall be served to each child who goes directly to school from nighttime care, unless breakfast is provided by the school or by the parent(s) or guardian(s).

Title 3A, Chapter 55 -- Manual of Requirements for Residential Child Care Facilities

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 30:1-14 and 15, and 30:4C-4.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2016 d.143, effective September 23, 2016.

See: 48 N.J.R. 699(a), 48 N.J.R. 2242(a).

Chapter 55, Manual of Requirements for Residential Child Care Facilities, was recodified from N.J.A.C. 10:127, Manual of Requirements for Residential Child Care Facilities, by administrative change, effective January 3, 2017. As part of the recodification, attendant technical changes were made to the rule text concerning cross-references, agency names, addresses, etc. See: 49 N.J.R. 98(a).

§ 3A:55-1.1 Legal authority

(a) Under N.J.S.A. 30:1-14, as applied by N.J.S.A. 9:3A-9 and 30:4C-4(d), the Department of Children and Families is authorized to inspect, evaluate, and approve publicly or privately operated facilities that provide board, lodging, care, and treatment services for children who are placed or financed by the Department or any other New Jersey State agency.

(b) Under N.J.S.A. 30:1-14, as applied by N.J.S.A. 9:3A-9, the following facilities shall be subject to inspection, evaluation, and approval by the Department:

1. New Jersey-based children's residential facilities, as defined in this chapter, except facilities that are licensed, approved, or regulated pursuant to State law by the Division of Mental Health and Addiction Services of the Department of Human Services, by the State Department of Health, by the State Department of Education, by the State Department of Corrections, or by any other New Jersey State agency; and

2. Out-of-State children's residential facilities as defined in this chapter, that serve one or more children under the supervision or care of the Division of Child Protection and Permanency or the Division of Children's System of Care. As a condition of approval by the Department, these facilities shall be licensed, certified, or otherwise permitted to operate in the state where the facility is located.

(c) In order to be approved, a children's residential facility shall demonstrate to the satisfaction of the Department or its duly authorized agent that it complies with all applicable provisions of this chapter.

(d) Under N.J.S.A. 30:1-15, as applied by N.J.S.A. 9:3A-9, the Department of Children and Families is also authorized to visit and inspect publicly or privately maintained institutions or other institutions and non-institutional agencies that:

1. Provide board, lodging, or care for children who are not placed or financed by the Division of Child Protection and Permanency or any other New Jersey State agency; and

2. Are not subject to licensing or regulation by any New Jersey State agency.

(e) The Department is authorized to visit and inspect facilities described in (d) above to assess the general health, safety, and well-being of the children and the care and treatment they are receiving, but cannot require their compliance with this chapter and must secure an order from a court of competent jurisdiction, pursuant to N.J.S.A. 30:1-16, as applied by N.J.S.A. 9:3A-9, to compel correction of serious deficiencies.

§ 3A:55-1.2 Definition and types of children's residential facilities

(a) "Residential child care facility" or "residential facility" or "facility" means any public or private establishment that provides room, board, care and treatment services for 13 or more children on a 24-hour-a-day basis.

(b) Residential child care facilities that are subject to the provisions of this chapter include:

1. Department-contracted or Department-operated residential child care facilities that serve children with emotional or behavioral problems and provide on-grounds educational programming;

2. Department-contracted or Department-operated residential child care facilities that serve children with emotional or behavioral problems who attend schools in the community; and

3. Department-contracted residential child care facilities that provide:

i. Drug and alcohol treatment services;

ii. Psychiatric services;

iii. Services to children with physical disabilities; or

iv. Adventure programs that serve children with emotional or behavioral problems.

§ 3A:55-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings:

"Adventure activity" means a planned activity of a wilderness or athletic nature that requires specially trained staff members and/or special equipment that is utilized with children to assist in their development of self-confidence and insight.

"Certificate of approval" or "certificate" means a document issued by the Office of Licensing to a facility indicating that the facility is in substantial compliance with all applicable provisions of this chapter, and that there is no serious or imminent hazard that exists in the facility affecting the children.

"Chapter" means the rules contained in the Manual of Requirements for Residential Child Care Facilities, as specified in N.J.A.C. 3A:55-1.1 to 10.25 and reflect provisions that constitute minimum baseline requirements below which no facility that is subject to the authority of N.J.S.A. 30:1-14 and N.J.S.A. 30:4C-4 is legally permitted to operate.

"Child" means any person who is under 18 years of age or any person between the ages of 18 and 21 who is under the supervision of the Division in placement in a residential child care facility.

"Denial of a certificate" means the withholding by the Office of Licensing of an initial certificate of approval for which a facility has applied.

"Department" means the New Jersey Department of Children and Families.

"Director" means the on-site staff member responsible for the daily operation and management of the facility.

"Division" means the Division of Child Protection and Permanency, New Jersey Department of Children and Families.

"Exclusion" means the removal of a child to an area or room in the facility where there is limited or no stimulation. This removal is a therapeutic intervention and a time for the child to reflect on his or her behavior in order to gain control so he or she can return to the other children.

"Infant" means any person who is under the care of his or her adolescent mother in a facility serving adolescent mothers.

"Parent" means a birth or adoptive parent, legal guardian, or any other person having responsibility for, or custody of, a child.

"Person" means any individual, agency, corporation, company, association, organization, society, firm, partnership, joint stock company, the State or any political subdivision thereof.

"Placing agency" means an agency that assumes responsibility for payment of room and board for a child placed in a facility.

"Refusal to renew a certificate" means the non-issuance of a certificate of approval by the Office of Licensing to a facility after its existing certificate has expired.

"Restraint" means the holding of a child so that he or she cannot move all or part of his or her body.

"Restrictive behavior management practice" means the use of restraint, exclusion, mechanical restraint and a behavior management room as part of a comprehensive treatment plan to help the child develop self-control, to reduce maladaptive behavior, to protect the child and others from harm or to prevent serious disruption to the therapeutic environment.

"Revocation of a certificate" means a permanent removal of a facility's current certificate of approval to operate.

"Shall" denotes a provision of this chapter that a facility must meet to qualify for a certificate of approval.

"Should" denotes a recommendation reflecting goals towards which a facility is encouraged to work.

"Staff member" or "staff" means any person employed by or working for or at a facility on a regularly scheduled basis. This includes full-time, part-time, substitute, volunteer, student intern, contract or consulting personnel, whether compensated or not.

"Suspension of a certificate" means a temporary removal of a facility's current certificate of approval to operate.

§ 3A:55-2.1 Application for a certificate of approval

(a) No person shall operate a residential child care facility that provides board, lodging, care, and treatment services for children who are placed or financed by the Division or by any other New Jersey State agency without first securing a certificate of approval from the Office of Licensing, except for facilities that are subject to licensing or regulatory approval pursuant to State law by any other New Jersey State agency.

(b) A facility applying to the Office of Licensing for an initial certificate of approval shall submit a completed application form to the Office of Licensing, including the documentation specified in N.J.A.C. 3A:55-4.1(a), (b), and (c), at least 45 calendar days prior to the anticipated opening of the facility.

(c) A facility applying to the Office of Licensing for a renewal of its certificate of approval shall submit a completed application form to the Office of Licensing, including the documentation specified in N.J.A.C. 3A:55-4.1(d), at least 45 calendar days prior to the expiration of its existing certificate.

(d) The application form referenced in (b) and (c) above shall include the following:

1. General identifying information;
2. Name(s) of the sponsors;
3. Names of members of the governing board;
4. A description of the agency's program, including program philosophy, goals and objectives;
5. A list of staff members; and
6. A list of residents placed by the Division.

§ 3A:55-2.2 Issuance of a certificate of approval

(a) The Office of Licensing shall issue a certificate of approval to a facility that has achieved full compliance with all applicable provisions of this chapter.

(b) If the Office of Licensing determines that a facility cannot be issued a certificate of approval when there is serious or imminent hazard to the education, health, safety, well-being, or treatment needs of the children, the Office of Licensing shall provide written notification to the facility indicating the steps the facility must take to secure a certificate of approval.

(c) The Office of Licensing shall issue an initial certificate of approval for a period not to exceed six months to a new facility not previously in existence that has achieved substantial compliance with all applicable life/safety provisions of this chapter and has completed the application form for an initial certificate of approval, as specified in N.J.A.C. 3A:55-2.1(b). Within six months of the issuance of the initial certificate of approval, the Office of Licensing shall conduct a comprehensive program and life/safety inspection and, upon the facility's substantial compliance with all applicable provisions of this chapter, issue a certificate of approval for the time period specified in (d) below.

(d) Each certification period shall be two years.

1. In determining the expiration date of the first certificate of approval, the Office of Licensing shall compute the two-year approval period from the date of issuance of the first certificate.

2. In determining the expiration date of a renewed certificate, the Office of Licensing shall compute the two-year approval period from the date on which the previous certificate expired. If however, the facility has ceased to operate for a period of one year following the expiration date of its previous certificate, the Office of Licensing shall compute the date of expiration from the date of issuance of a new certificate.

(e) The certificate of approval shall be issued to a specific facility and shall not be transferable.

(f) The facility shall maintain its certificate of approval on file.

(g) No facility shall make claims either in advertising or in any written or verbal announcement or presentation contrary to its approval status.

§ 3A:55-2.3 Denying, suspending, revoking, or refusing to renew a certificate of approval

(a) The Office of Licensing may deny, suspend, revoke, or refuse to renew a certificate of approval for good cause, including, but not limited to, the following:

1. Failure to comply with the provisions of this chapter;

2. Violation of the terms and conditions of a certificate of approval;

3. Fraud or misrepresentation in obtaining a certificate;

4. Refusal to furnish the Department with files, reports, or records as required by this chapter;

5. Refusal to permit an authorized representative of the Department to gain admission to the facility or to conduct an inspection or investigation;

6. Any activity, policy, or staff conduct that adversely affects or is deemed by the Office of Licensing to be detrimental to the education, health, safety, well-being, or treatment needs of children or that otherwise demonstrates unfitness by the director or staff members of the facility to operate a residential child care facility;

7. Failure of an out-of-State facility to maintain a license, approval or certificate in its own state; and

8. Failure by the director to secure and to maintain on file documentation from the Department showing compliance with criminal conviction disclosures, as specified in N.J.A.C. 3A:55-5.1(b)1, Criminal History Record Information background checks, as specified in N.J.A.C. 3A:55-5.6, or Child Abuse Record Information background checks, as specified in N.J.A.C. 3A:55-5.7;

9. Refusal by the director to consent to or cooperate in a Criminal History Record Information background check or Child Abuse Record Information background check for himself or herself;

10. Refusal by the director to terminate the employment of a staff member who refuses to consent to or cooperate in a Criminal History Record Information background check or Child Abuse Record Information background check;

11. Refusal by the director to terminate the employment of a staff member when an allegation of child abuse or neglect has been substantiated against the staff member;

12. Refusal by the director to terminate the employment of a staff member convicted of a crime or offense requiring disqualification, as specified in N.J.A.C. 3A:55-5.6(e);

13. A substantiated allegation of child abuse or neglect against the director; and

14. Conviction by the director for a crime or offense requiring disqualification, as specified in N.J.A.C. 3A:55-5.6(e).

(b) The Office of Licensing shall provide written notice to the facility if it intends to deny, suspend, revoke, or refuse to renew its application for a certificate. This notice shall specify the Office of Licensing's reasons for the action and the need for the facility to come into compliance prior to the action being taken.

(c) If the Office of Licensing denies, revokes, or refuses to renew a certificate of approval, as specified in (a) above, the facility shall be prohibited from reapplying for a certificate of approval for one year from the date of certificate denial, revocation, or refusal to renew. After the one-year period has elapsed, the facility may submit to the Office of Licensing a new application for a certificate.

(d) If a certificate is suspended, the Office of Licensing shall issue or reinstate the certificate once the facility achieves compliance with the provisions of this chapter. In this case, the Office of Licensing shall not require the facility to submit a new application for a certificate unless reapplication is expressly made a condition of the issuance or reinstatement of the certificate.

(e) Each certificate of approval issued by the Office of Licensing to a facility remains the property of the State of New Jersey. If the Office of Licensing suspends or revokes a certificate of approval, the facility shall return the certificate of approval to the Office of Licensing immediately.

§ 3A:55-2.4 Administrative hearings

(a) If a facility fails to comply with all applicable provisions of this chapter, the Office of Licensing shall issue a directive ordering compliance. Prior to the Office of Licensing's decision to deny, suspend, refuse to renew, or revoke a facility's certificate of approval, the facility shall have the opportunity to request an administrative hearing, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) As long as the Department determines that children are not at risk and that no imminent dangers exist, the Office of Licensing may permit a facility that has requested an administrative hearing, as specified in (a) above, to continue to operate until a final decision is rendered as a result of the hearing.

(c) If it is determined that the children residing at the facility are at risk, the Department may:

1. Remove the children from the residence; or

2. Place staff approved by the Department at the facility to ensure the children's safety.

§ 3A:55-2.5 Complaints

(a) Whenever the Office of Licensing receives a report questioning the approval status or compliance of a facility or alleging a violation of this chapter, the Office of Licensing shall ensure that the allegation is promptly investigated to determine whether the complaint is substantiated.

(b) If a serious complaint is received that alleges imminent hazard or risk to the health, safety, and welfare of the children, the Office of Licensing shall investigate the complaint within 24 hours.

(c) After the report of the investigation has been completed, the Office of Licensing shall notify the facility in writing of the results of the investigation within 15 days, pursuant to N.J.S.A. 47:1A-1 et seq., with the exception of any information not permitted to be disclosed pursuant to N.J.S.A. 9:6-8.10a, or any other State law.

(d) Whenever the Division or Department, through its Office of Licensing, Institutional Abuse Investigation Unit or local offices, conducts complaint investigations, the facility shall cooperate with all Department investigators.

§ 3A:55-2.6 Public access to the Office of Licensing's records

Licensing files maintained by the Office of Licensing are public records and shall be readily accessible for examination by any person, under the direction and supervision of the Office of Licensing, except when public access to records is restricted, in keeping with N.J.S.A. 47:1A-1 et seq., or other applicable statutes.

§ 3A:55-3.1 Statement of purpose

(a) The facility shall maintain on file a written statement of purpose that shall identify the following:

1. The facility's philosophy, goals, and objectives;

2. Characteristics of the children to be served;

3. Types of treatment services provided to the children, including those provided directly by the facility and those provided in cooperation with community agencies or outside individuals;

4. Procedures for implementing those services; and

5. Criteria for completion of the program.

(b) The facility shall give this statement of purpose to the parents of the children being considered for services, and shall make it available to all staff members.

(c) The facility shall secure and maintain on file a record of the parents' and staff members' signatures attesting to their acknowledgment of the statement of purpose.

§ 3A:55-3.2 Rights of children

(a) The facility shall prepare a list of children's rights and shall post it in prominent locations in the facility, including in each living unit, or give it to the children and document such in each child's record. The list shall comply with the applicable provisions of N.J.S.A. 9:6B-1 et seq., the Child Placement Bill of Rights Act. At a minimum, the list shall specify the children's right to:

1. Receive prompt medical treatment;
2. Have access to an appropriate education;
3. Live in a safe, clean and healthy environment;
4. Be free of physical or sexual harassment or abuse and corporal punishment;
5. Attend religious services of their choice; and
6. Have unimpeded communication with the Division and other professional persons or agencies.

(b) The facility shall give this list of children's rights to the parents of the children being considered for admission and shall make it available to all staff members.

(c) The facility shall secure and maintain on file a record of the parents' and staff members' signatures attesting to their acknowledgment of the list of children's rights.

(d) If the facility chooses to develop a search and seizure policy, the facility shall give all children, staff and parents a copy of this policy, as specified in N.J.A.C. 3A:55-6.15.

(e) The facility shall prepare, post or give to all staff members and children a written grievance procedure governing how the children may raise questions about or voice disagreements and concerns about procedures, care and specific incidents. The facility shall not take or threaten to take retaliatory or disciplinary action of any kind against a child who uses the grievance procedure. The facility shall provide a procedure to explain the above to children who are developmentally disabled, unable to read or unable to hear.

§ 3A:55-3.3 Information to parents and staff members

(a) The facility shall provide to every parent within five working days of his or her child's placement, and to every person upon becoming a staff member, a written document indicating that the facility is required to:

1. Secure a certificate of approval to operate from the Office of Licensing;

2. Comply with all applicable provisions of this chapter;

3. Retain a current copy of this chapter and make it available for review by parents of resident children;

4. Indicate how parents may secure a copy of this chapter by contacting the Office of Licensing;

5. Afford parents the opportunity and time to review and discuss with the facility director any questions or concerns about policies, requirements, provisions, or alleged violations of this chapter;

6. Advise parents that if they believe or suspect that the facility is in violation of any provision of this chapter, they may report alleged violations to the Office of Licensing;

7. Make available, upon request, for parents' review the Office of Licensing's Inspection/Violation and Complaint Reports on the facility, as well as any letters of enforcement or other actions taken against the facility during the current certificate of approval period;

8. Inform parents that they shall be provided a copy of the facility's behavior management policy, including policies for searches, as specified in N.J.A.C. 3A:55-6.13 and 6.15;

9. Inform parents that the facility is required to provide the child's parents with copies of the facility's visitation and communication policies, a copy of the procedures for expressing concern or registering complaints regarding their child's placement, and a description of its religious policies, including a statement that the child has a right to practice his or her religion;

10. State that any person who has reasonable cause to believe that a child residing in the facility has been or is being subjected to any form of child abuse or neglect is required by State law to report the allegations to the Department's toll-free hotline, 1-877-NJ-ABUSE (652-2873), pursuant to N.J.S.A. 9:6-8.10. Reports may be made anonymously;

11. Inform parents and staff members that they may secure information about the prevention and reporting of child abuse and neglect by contacting the Department;

12. Inform parents that the facility must secure written consent from the child's parents before the facility may involve the child in fund-raising, publicity, or audiovisual activities related to the facility; and

13. Inform parents that the facility will develop a visitation schedule for parents and children, as specified in N.J.A.C. 3A:55-6.6, 9.20 and 10.13.

(b) The facility shall comply with the requirements specified in (a) above by:

1. Securing the parent's and staff member's signature on a record attesting to receipt of the document; and

2. Maintaining the record on file; or

3. If the parents cannot be reached or refuse to sign the document after repeated requests, the facility shall document in the record the attempts made to secure the parent's signature.

§ 3A:55-3.4 Community participation

(a) Each facility shall have a governing board that is responsible for establishing and assuring the facility's mission, planning, and policies for finances, personnel, development and public relations. The governing board shall also be responsible for the facility's compliance with applicable laws and requirements. Such a board shall include representatives from the civic, business or educational community.

(b) The governing board shall meet at least every six months. The facility shall keep on file a list of current membership of the governing board and a record of its meetings.

§ 3A:55-3.5 Conflict of interest and compliance with law

(a) Each facility receiving funds from the Department shall adopt a written conflict of interest policy, as required by the facility's contract with the Department.

1. The facility shall ensure that a copy of the adopted policy, with its effective date, is forwarded to all governing board members and staff members and is posted in a prominent location or kept on file at the facility.

2. The governing board shall ensure that the conflict of interest policy is adhered to by the facility director through the governing board's review of the facility's policies involving the purchasing of goods or services and hiring practices.

(b) Each facility receiving funds from the Department shall comply with all applicable Federal, State, and local laws.

§ 3A:55-3.6 Intake and admissions

(a) The facility shall ensure that the child and his or her parents have an opportunity to visit the facility prior to the child's placement.

(b) For all placements, the facility shall have the following information on file in the child's record upon the child's admission:

1. The child's full name, nicknames, if any, gender, date of birth, religion, and race;

2. The name, address, telephone number, and relationship to the child of the person(s) with whom the child was living at the time of admission;

3. The name, address, and telephone number of the child's father, mother, foster parents, or legal guardians, if different from (b)2 above;

4. The name, address, and telephone number of the worker at the placing agency;

5. The name, address, and telephone number of the person to notify in an emergency;

6. The names of siblings, their ages, and gender;

7. The reason for placement of the child;

8. A Medicaid card, if applicable;

9. A Social Security Number, if available; and

10. A statement signed by the parent(s) or legal guardian, granting consent for emergency medical or surgical care, semi-annual dental care and annual physical examinations for the child.

(c) For all placements, the facility shall have the following information on file in the child's record within 30 calendar days of the child's admission:

1. Schools attended, grade level, and employer, if any;

2. Discharge summaries from previous placements, if any;

3. The child's medical history, including chronic conditions, past serious illnesses, allergies, medications, immunizations and special diet; and

4. A discharge plan, including the estimated duration of care.

(d) If the facility is unable to obtain the information specified in (c) above within 30 calendar days of the child's admission, the facility shall document in the child's file its efforts to obtain such information.

(e) Immediately following the child's admission, the facility shall:

1. Give each child a secure place to store valuables;

2. Ask the child to sign or otherwise verify that a staff member explained house rules and regulations, children's rights as specified in N.J.A.C. 3A:55-3.2, discipline policy and search and seizure policy, if any; and

3. Inform each child of fire exits and evacuation procedures.

§ 3A:55-3.7 Reporting requirements

(a) The director or any staff member shall immediately notify verbally the Department's toll-free hotline, 1-877-NJ-ABUSE (652-2873), whenever there is reasonable cause to believe that a child has been or is being abused or neglected by staff members or any other person, as required by N.J.S.A. 9:6-8.9, 8.10, 8.13, and 8.14. Copies of the law and information about it are available from the Department at www.nj.gov/dcf/reporting.

(b) The facility shall notify the Office of Licensing verbally of any of the following changes or events by the next working day after the facility learns of their occurrence, to be followed by written notification to the Office of Licensing within five working days:

1. Injury, accident or illness that results in the admittance of a child to a hospital;

2. The death of a child while the child was on the premises of the facility or in the care of a staff member or volunteer;

3. Temporary or permanent closing of the facility; and

4. Any criminal conviction of a staff member, as specified in N.J.A.C. 3A:55-5.1(b).

(c) The facility shall notify the Office of Licensing verbally of any of the following changes or events by the next working day after the facility learns of their occurrence:

1. The occurrence of a reportable disease, as specified in the State Sanitary Code at N.J.A.C. 8:57;

2. Proposed relocation of the facility to a site not approved by local municipal officials and the Office of Licensing, as specified in N.J.A.C. 3A:55-4.1;

3. Damage to the premises of the facility caused by fire, accident or the weather; and

4. Proposed use of space involving rooms not approved by the Office of Licensing, as specified in N.J.A.C. 3A:55-4.1(a)5.

(d) The facility shall notify the Office of Licensing in writing at least 30 calendar days before any of the following proposed changes or events:

1. The anticipated closing or relocation of the facility for any reason other than temporary closings for holidays and vacations;

2. A change or anticipated change of director of the facility;

3. A change of type of children served; or

4. A change of services offered.

(e) The facility shall notify the placing agency and the child's parents within 24 hours of any unauthorized absence of a child from the facility.

§ 3A:55-3.8 Records

(a) The facility's records shall be open for inspection by authorized representatives of the Office of Licensing, the Department's Institutional Abuse Investigation Unit (IAIU), the Department's contracting units, and Division workers, provided that they may only secure information about children under the Division's supervision. The facility's records shall also be open to inspection by other agencies pursuant to applicable Federal and State laws, requirements, or court order.

(b) Each facility shall maintain on file the following administrative records until the expiration of its certificate of approval:

1. The following records shall be maintained in files located at the facility:

i. A copy of this chapter;

ii. A statement of purpose, as specified in N.J.A.C. 3A:55-3.1 and 9.1;

iii. The Life/Safety and Program Inspection/Violation reports and Complaint Investigation Summary reports from the Office of Licensing, if applicable, as well as letters of enforcement or other actions taken against the facility, if applicable, that cover the current certificate of approval period;

iv. The document providing information to parents, as specified in N.J.A.C. 3A:55-3.3(a);

v. A record of each parent's signature attesting to the receipt of the information to parents document, as specified in N.J.A.C. 3A:55-3.3(b) 1;

vi. Documentation of the use of extermination services, if applicable, as specified in N.J.A.C. 3A:55-4.3(a)7;

vii. Policies and procedures regarding behavior management, as specified in N.J.A.C. 3A:55-6.13, 6.14 and 10.14;

viii. A record of in-service training conducted for staff members, as specified in N.J.A.C. 3A:55-5.4 and 10.3;

ix. A record of all incidents and accidents, recorded on incident and accident report forms, noting all details of the incident and accident and any actions taken by the staff members, as specified in N.J.A.C. 3A:55-6.13, 7.3(b) and 9.3(a) and (b);

x. A copy of the comprehensive health plan, as specified in N.J.A.C. 3A:55-7.1, 10.15 and 10.16;

xi. Copies of menus of food served to the children, including special diets, as specified in N.J.A.C. 3A:55-6.11 and 10.24;

xii. Aggregate statistical information on children served, including the date of each admission, date of each discharge, and reason for each discharge, as specified in N.J.A.C. 3A:55-5.2(a)10;

xiii. A record of signed parental consent for children's participation in fund-raising, publicity, photography, or audiovisual activities related to the facility, as specified in N.J.A.C. 3A:55-3.3(a)12;

xiv. A copy of the children's grievance procedures, as specified in N.J.A.C. 3A:55-3.2(e);

xv. A record of signed parental consent for medical treatment for each child, as specified in N.J.A.C. 3A:55-3.6(b)10;

xvi. A daily log book, in which an on-duty staff member shall comment on the activities and events of each day and staff member response to those events;

xvii. A daily log book, a separate log book, or notation in the child's case record, in which all visits to the child shall be recorded;

xviii. A copy of the staff members' work schedules and time sheets;

xix. A medication log book, as specified in N.J.A.C. 3A:55-7.4, 7.5 and 10.20;

xx. A written daily schedule of planned recreational, leisure time and physical exercise activities, as specified in N.J.A.C. 3A:55-6.8(b) and 10.11;

xxi. A record of pet vaccinations and the name and address of the licensed veterinarian providing care for the pets, if applicable, as specified in N.J.A.C. 3A:55-6.12;

xxii. A copy of the parenting education curriculum, if applicable, as specified in N.J.A.C. 3A:55-10.8;

xxiii. Documentation of the information received from the National Weather Service and park service, if applicable, as specified in N.J.A.C. 3A:55-9.1(n) and (o);

xxiv. A copy of the plan for emergency evacuation procedures, if applicable, as specified in N.J.A.C. 3A:55-9.2(a);

xxv. A copy of the plan for search and rescue procedures, if applicable, as specified in N.J.A.C. 3A:55-9.2(b);

xxvi. Copies of biking permits, if applicable, as specified in N.J.A.C. 3A:55-9.4(a);

xxvii. Documentation that permission was obtained to enter a cave from the owner or public authority, if applicable, as specified in N.J.A.C. 3A:55-9.6(c);

xxviii. Documentation of the care of horses, if applicable, as specified in N.J.A.C. 3A:55-9.8(d);

xxix. Documentation on the safety of ropes used in climbing, if applicable, as specified in N.J.A.C. 3A:55-9.9(d);

xxx. A copy of the plan for boating activities, if applicable, as specified in N.J.A.C. 3A:55-9.10(b);

xxxi. Copies of all permits, certificates or licenses for camping, if applicable, as specified in N.J.A.C. 3A:55-9.15(a);

xxxii. A copy of the policy for treating snake, animal and insect bites and contact with poisonous plants, if applicable, as specified in N.J.A.C. 3A:55-9.17(c);

xxxiii. A copy of the plan and procedures that enable children to receive an emergency message, and send and receive mail, if applicable, as specified in N.J.A.C. 3A:55-9.20(c);

xxxiv. Documentation that children were permitted to make free telephone calls, if applicable, as specified in N.J.A.C. 3A:55-9.20(e);

xxxv. A copy of the policy for visiting and communication for parents, if applicable, as specified in N.J.A.C. 3A:55-9.20(g); and

xxxvi. A copy of the feed plan for horses, if applicable, as specified in N.J.A.C. 3A:55-9.8 and 9.16.

2. The following records shall be maintained in files located either at the facility's administrative office or at the facility:

i. A record of comprehensive general liability insurance, as specified in N.J.A.C. 3A:55-3.9;

ii. A record of performance of required monthly fire drills and/or evacuation drills, as specified in N.J.A.C. 3A:55-4.5(c);

iii. A record of training sessions for staff members on evacuation procedures, the use of fire extinguishers, the location of fire alarms, and emergency medical procedures, as specified in N.J.A.C. 3A:55-5.4(a)3;

iv. A copy of the facility's vehicle insurance policy, as specified in N.J.A.C. 3A:55-8.2; and

v. Transportation records, if transportation is provided to children residing in the facility, as specified in N.J.A.C. 3A:55-8.4.

3. For all facilities whose programs are primarily adventure-based, the following records shall be maintained on location:

i. A copy of this chapter;

ii. The Life/Safety and Program Inspection/Violation Reports and Complaint Investigation Summary Reports from the Office of Licensing, if applicable, as well as letters of enforcement or other actions taken against the facility, if applicable, that cover the current certificate of approval period;

iii. Policies and procedures regarding behavior management, as specified in N.J.A.C. 3A:55-6.13, 6.14 and 10.14;

iv. A record of all incidents and accidents, recorded on incident and accident report forms, noting all details of the incident and accident and any actions taken by the staff members, as specified in N.J.A.C. 3A:55-6.13, 7.3(b) and 9.3(a) and (b);

v. Copies of menus of food served to the children, including special diets, as specified in N.J.A.C. 3A:55-6.11 and 10.24;

vi. A record of signed parental consent for children's participation in fund-raising, publicity, photography, or audiovisual activities related to the facility, as specified in N.J.A.C. 3A:55-3.3(a)12;

vii. A record of signed parental consent for medical treatment for each child, as specified in N.J.A.C. 3A:55-3.6(b)10;

viii. A daily log book, in which an on-duty staff member shall comment on activities and events of each day and staff member response to those events;

ix. A copy of staff members' work schedules and time sheets, as specified in N.J.A.C. 3A:55-5.2;

x. A medication log book, as specified in N.J.A.C. 3A:55-7.4, 7.5, and 10.20;

xi. A written daily schedule of planned recreational, leisure time and physical exercise activities, as specified in N.J.A.C. 3A:55-6.8(b) and 10.11;

xii. A copy of the plan for emergency evacuation procedures, as specified in N.J.A.C. 3A:55-9.2(a); and

xiii. A copy of the plan for search and rescue procedures, as specified in N.J.A.C. 3A:55-9.2(b).

(c) The facility shall maintain on file the following staff records throughout a staff member's employment and for one year after the staff member has stopped working at the facility:

1. The following records for the director and all staff members shall be maintained in files located either at the facility's administrative office or at the facility:

i. Applications for employment, with disclosure statement(s), as specified in N.J.A.C. 3A:55-5.1(b) and 9.18;

ii. References on the director and staff members, as specified in N.J.A.C. 3A:55-5.1(b) and 9.18;

iii. A record of each staff member's signature attesting to his or her receipt of the policy statement on the disciplining of children by staff members, as specified in N.J.A.C. 3A:55-3.3(b);

iv. A record of each staff member's signature attesting to his or her receipt of the information to parents document, as specified in N.J.A.C. 3A:55-3.3(b);

v. Health information, as specified in N.J.A.C. 3A:55-7.7; and

vi. Documentation of completion of a Criminal History Record Information background check, as specified in N.J.A.C. 3A:55-5.6, and a Child Abuse Record Information background check, as specified in N.J.A.C. 3A:55-5.7.

2. The following staff records shall be maintained in files located at the facility:

i. Current staff member attendance sheets;

ii. A full written disclosure of the director's and every staff member's background, previous work experience, and criminal convictions, if any, as specified in N.J.A.C. 3A:55-5.1(b) and 9.18;

iii. Documentation that every staff member received and reviewed a copy of the facility's statement of purpose, grievance policy, children's bill of rights, fireplace policy, search and seizure policy, and information to parents statement, as specified in N.J.A.C. 3A:55-3.1(b), 3.2(b) to (d), 3.3(b), and 4.4(c)6; and

iv. Documentation of training received by staff members, as specified in N.J.A.C. 3A:55-5.4 and 10.3.

(d) The facility shall maintain on file the following children's records during the child's placement at the facility and for at least four years following the discharge of the child:

1. Identifying information, as specified in N.J.A.C. 3A:55-3.6(b) and (c);

2. A copy of each treatment plan developed for the child, as specified in N.J.A.C. 3A:55-6.1, and a copy of the case management plan for facilities that serve pregnant and parenting adolescents, as specified in N.J.A.C. 3A:55-10.4;

3. Education records, as specified in N.J.A.C. 3A:55-6.7;

4. Reports of incidents, including, but not limited to, acts of aggression, violent or destructive behavior, discovery of contraband, suicidal threats, discovery of a weapon, inappropriate sexual behavior, involvement with the police and documentation of efforts made to locate runaways, as specified in N.J.A.C. 3A:55-6.13, 6.14 and 6.15;

5. Reports of accidents, as specified in N.J.A.C. 3A:55-7.3 and 9.3(a) and (b);

6. Documentation of the opening of a child's mail by facility staff, as specified in N.J.A.C. 3A:55-6.6;

7. Medical records, as specified in N.J.A.C. 3A:55-7.2 and 9.17(a) and (b);

8. Explanations of medical treatment, as specified in N.J.A.C. 3A:55-10.19;

9. A discharge summary, as specified in N.J.A.C. 3A:55-6.2 and 10.5;

10. An aftercare plan, as specified in N.J.A.C. 3A:55-6.2 and 10.5;

11. An infant's feeding schedule, as specified in N.J.A.C. 3A:55-10.24;

12. Documentation that an adolescent mother received life skills development training, as specified in N.J.A.C. 3A:55-10.25; and

13. Documentation that a child received information on adventure activities, as specified in N.J.A.C. 3A:55-9.1(c).

(e) The facility shall ensure the confidentiality of the records for each child enumerated in (d) above, in accordance with New Jersey State law, including N.J.S.A. 9:6-8.10(a) covering abuse and neglect information. The facility shall ensure that all entries in the child's record indicate the entry date and the name and signature of the person making the entry.

§ 3A:55-3.9 Comprehensive general liability insurance

The facility shall secure comprehensive general liability insurance coverage and shall maintain on file a copy of the insurance policy.

§ 3A:55-4.1 Physical facility initial approval requirements for all facilities located in New Jersey

(a) An applicant seeking an initial certificate of approval, as specified in N.J.A.C. 3A:55-2.1, to operate a facility located in New Jersey shall comply with all applicable provisions of the New Jersey Uniform Construction Code, as specified in N.J.A.C. 5:23, and hereinafter referred to as the NJUCC.

1. For newly constructed buildings, for existing buildings whose construction code use group classification would change from that which it had been, or for existing buildings that require major alteration or renovation, the facility shall submit to the Office of Licensing a copy of a Certificate of Occupancy (CO) issued by the municipality in which it is located, reflecting the facility's compliance with provisions of the NJUCC, for one of the following use group classifications:

i. I-1 (Institutional) for buildings accommodating 16 or more children over 2 1/2 years of age;

ii. I-2 (Institutional) for buildings accommodating six or more children who are under 2 1/2 years of age; or

iii. I-3 (Institutional) for secure residential child care facilities accommodating 16 or more children over 2 1/2 years of age.

2. For facilities that are planning to construct a new building, the facility shall submit to the Office of Licensing:

i. Preliminary architectural drawings for review and comment prior to beginning construction; and

ii. If applicable, revised architectural or final drawings containing all required items listed in the preliminary plan review for final approval from the Office of Licensing before the facility can open.

3. For buildings constructed after the adoption of the NJUCC (1977), whose construction code use group classification is already I-1, I-2, or I-3 and that have not had major alterations or renovations since receipt of the CO, the facility shall obtain the CO issued by the municipality in which it is located at the time the building was originally constructed or approved for use in the NJUCC's I-1, I-2, or I-3 use group classification. The facility shall submit a copy of the building's CO to the Office of Licensing.

4. For existing buildings, whose use prior to the adoption of the NJUCC (before 1977) was and continues to be for a children's residential facility and that have not had major alterations or renovations, the facility shall obtain a Certificate of Continued Occupancy (CCO) or a letter to this effect, issued by the municipality in which it is located, reflecting the building's compliance with provisions of the municipality's construction code requirements that were in effect at the time it was originally constructed or converted for use as a facility. The facility shall submit a copy of the building's CCO or letter reflecting the building's compliance to the Office of Licensing.

5. The facility shall obtain a new CO issued by the municipality in which it is located, reflecting the building's compliance with provisions of the applicable NJUCC use group classification, and

submit a copy of the new CO to the Office of Licensing whenever it takes any of the following actions:

i. Changes the building's use group classification to one other than the one prescribed on its original CO;

ii. Makes a major alteration or renovation, as defined by the NJUCC, of the building or premises where the facility is located;

iii. Increases the floor area or the number of stories to the building or premises where the facility is located; or

iv. Relocates to another site.

6. Whenever a municipality grants a facility a written variation from any of the requirements of the NJUCC, the Office of Licensing may accept these variations as meeting the applicable requirements of this chapter.

i. When the Office of Licensing does not accept the variation, the non-acceptance shall be based on the best interests of the residents of the facility, and shall include consideration for their health and safety.

ii. Should the facility disagree with the Office of Licensing, the facility may seek a hearing in accordance with N.J.A.C. 3A:55-2.4(a) and the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1, as implemented by the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) An applicant seeking an initial approval, as specified in N.J.A.C. 3A:55-2.1, to operate a facility shall comply with all applicable provisions of the New Jersey Uniform Fire Code, as specified in N.J.A.C. 5:18, 18A, and 18B and hereinafter referred to as the NJUFC. The facility shall obtain the building's fire safety inspection certificate issued by the municipality in which it is located, based on a fire inspection conducted within the preceding 12 months, reflecting the facility's compliance with all applicable provisions of the NJUFC. The facility shall submit a copy of the building's fire safety inspection certificate to the Office of Licensing.

(c) An applicant seeking an initial approval, as specified in N.J.A.C. 3A:55-2.1, to operate a facility shall comply with all applicable provisions of the State Sanitary Code, as specified in N.J.A.C. 8:24. The facility shall obtain a certificate or statement of satisfactory health approval issued by the applicable municipal, county, or State health agency, based on a health inspection conducted within the preceding 12 months, certifying that the facility complies with applicable provisions of local, county, and State health codes and poses no health hazard to the children served. The facility shall submit a copy of the certificate or statement of satisfactory health approval to the Office of Licensing.

(d) An applicant seeking the renewal of a certificate of approval to continue operating a facility shall obtain and submit to the Office of Licensing, copies of:

1. A current fire safety inspection certificate for the building; and

2. A current certificate or statement of satisfactory health approval for the facility.

§ 3A:55-4.2 Physical facility initial approval requirements for all facilities located outside of New Jersey

(a) A facility located in a state other than New Jersey shall submit with each application documentation that the facility meets the provisions of all applicable codes governing building, fire, safety and health requirements in the state, county and municipality in which the facility is located.

(b) All facilities located in a state other than New Jersey shall also comply with the physical facility and life-safety requirements specified in N.J.A.C. 3A:55-4, with the exception of N.J.A.C. 3A:55-4.4(c), (f) 3, (g), (h), (i), and (l).

§ 3A:55-4.3 Maintenance and sanitation requirements for all facilities

(a) The facility shall maintain all indoor areas in a safe and sanitary manner by ensuring that:

1. The facility is free of moisture resulting from water leaks or seepage;

2. All Lally columns in areas used by the children have protective padding from the floor to a height of at least 72 inches;

3. Floors, walls, ceilings and other surfaces are kept clean and in good repair;

4. Stairways are free of hazards such as boxes, loose steps, torn carpeting or raised strips;

5. Carpeting is secured to the floor;

6. Garbage and food receptacles are:

i. Made of durable, leakproof and nonabsorbent materials;

ii. Covered in a secure manner;

iii. Emptied to the outdoor garbage receptacle when filled; and

iv. Lined and maintained in a sanitary manner;

7. The facility is free of rodent or insect infestation. If there is evidence of rodent or insect infestation, immediate action shall be taken to remove such infestation. The facility shall maintain on file a record documenting the use of extermination services in these cases;

8. Toilets, wash basins, kitchen sinks, and other plumbing are maintained in good operating and sanitary condition;

9. All corrosive agents, insecticides, bleaches, detergents, polishes, any products under pressure in an aerosol can, and any toxic substances are stored in a locked cabinet or in an enclosure located in an area not accessible to children. Bleaches, detergents, polishes and specific aerosol products may be made available to children 12 years of age and older with facility supervision;

10. Ventilation outlets are clean and free from obstructions, and filters are replaced when saturated;

11. Walls are painted or otherwise covered whenever there is evidence of:

i. Excessive peeling or chipped paint; or

ii. Heavily soiled conditions; and

12. All shelving is secured and not overloaded.

(b) The facility shall maintain all outdoor areas in a safe and sanitary manner by ensuring that:

1. The building, land and outdoor play area are free from any hazards to the health, safety or welfare of the children;

2. The outdoor play area is graded or provided with drains to dispose of surface water;

3. The building structure is maintained to prevent:

i. Water from entering;

ii. Excessive drafts or heat loss; and

iii. Infestation from rodents and insects;

4. The railings of balconies, landings, porches, or steps are maintained in safe condition;

5. Garbage receptacles are:

i. Made of durable, leakproof and nonabsorbent materials; and

ii. Covered in a secure manner, maintained in a sanitary manner and located in an outdoor area; and

6. All fencing or other natural or man-made barriers or enclosures, shall be maintained in proper condition.

(c) The Office of Licensing shall also require the facility to take whatever steps are necessary to correct any conditions in the facility that may endanger in any way the health, safety, and well-being of the children served.

(d) The facility shall safeguard all keys and keep them out reach of the children.

§ 3A:55-4.4 Additional maintenance and sanitation requirements for all facilities located in New Jersey

(a) The facility shall meet the following lighting requirements:

1. All fluorescent tubes and incandescent light bulbs shall have protective covers or shields;

2. During activities in the facility, at least 20 foot-candles of natural or artificial light shall be provided in all rooms used by the children. This illumination shall be measured three feet above the floor at the farthest point from the light source; and

3. Parking areas, pedestrian walkways, or other exterior portions of the premises subject to use by children and staff at night shall be illuminated to provide safe entrance to and egress from the facility.

(b) The facility shall meet the following heating requirements:

1. A minimum temperature of 65 degrees Fahrenheit and maximum temperature of 80 degrees Fahrenheit shall be maintained in all rooms used by the children;

2. Working fireplaces, steam and hot water pipes, radiators and electric space heaters shall be protected by screens, guards, insulation or any other suitable, non-combustible protective device; and

3. The facility shall not use portable liquid fuel-burning or wood-burning heating appliances.

(c) The facility shall ensure that fireplaces meet the following requirements:

1. The use of a fireplace for the children served by the facility shall not pose a serious risk of fire hazard to occupants of the facility, as determined by the local fire official;

2. The fireplace shall be approved by the local government construction official and fire official, in accordance with applicable provisions of the NJUCC and the NJUFC, respectively;

3. The facility shall obtain a copy of these certificates or statements of approval and submit them to the Office of Licensing;

4. The facility shall develop guidelines, in conjunction with the local fire official, that ensure proper use of the fireplace, safety procedures, and an action plan to be followed in the event of an emergency;

5. The guidelines specified in (c)4 above shall include, but not be limited to, staff member supervision, storage of wood, storage and safeguarding of matches, instruction in the use of fireplace implements, use of the screen, posting of emergency phone numbers for police and fire departments and hospitals, posting of emergency procedures and exits, and methods and safeguards for extinguishing the fire; and

6. The guidelines specified in (c)4 above shall be maintained on file by the facility and reviewed by all staff members and children in the facility.

(d) The facility shall meet the following ventilation requirements:

1. Crawl spaces, attic spaces, and all doors and windows used for natural ventilation shall have insect screening;

2. All floor or window fans that are accessible to the children shall have a grille, screen, mesh or other protective covering designed to prevent a child from coming into contact with the blades of the fan; and

3. Ventilation outlets shall be clean and free from obstructions and filters shall be replaced when saturated.

(e) The facility shall ensure that mirrors, dispensers, and other equipment are fastened securely.

(f) Facilities that serve children with special needs shall ensure that:

1. For non-ambulatory children, the toilet facilities are located on the same floor where the children's bedrooms and activities are located;

2. The width and height of toilets and sinks accommodate the children served; and

3. Grab bars are provided in toilet and bathroom areas, as specified in N.J.A.C. 5:23-7, the Barrier-free Subcode of the NJUCC.

(g) The facility shall not use lead paint on and shall remove lead paint from any interior or exterior surfaces of a building used as a facility, or on any furniture, toys or other equipment used therein, in accordance with the provisions of N.J.S.A. 24:14A-1 et seq., and with the provisions of the State Sanitary Code, at N.J.A.C. 8:51-7. When lead paint is found in areas of a facility not specified in N.J.A.C. 8:51-7, the Office of Licensing shall determine whether the lead paint is hazardous to the health, safety, and well-being of the children served and, if considered to be hazardous, the facility shall remove the lead paint hazard.

(h) The facility shall not use spray coatings containing asbestos on any interior or exterior surfaces of the facility or on any equipment used therein, in accordance with rules of the State Department of Environmental Protection, as specified in N.J.A.C. 7:27-17.2 and with applicable provisions of the Asbestos Hazard Abatement Subcode of the NJUCC, as specified in N.J.A.C. 5:23-8. If the New Jersey Department of Health determines the presence of sprayed-on asbestos-containing materials, and concludes that corrective action must be taken to minimize exposure potential, the facility shall follow the recommendation of the State Health Department for enclosure, removal or other appropriate action to remove the threat or risk of asbestos contamination.

(i) The facility shall ensure that swimming pools and natural bathing places used by the children:

1. Comply with applicable provisions of the Public Recreational Bathing Rules, as specified in N.J.A.C. 8:26, and with applicable provisions of the Building Subcode and Barrier-free Subcode of the NJUCC, as specified in N.J.A.C. 5:23; and

2. Provide for supervision of the children, in accordance with applicable provisions of the New Jersey Youth Camp Safety Act rules, as specified in N.J.A.C. 8:25.

(j) The facility shall ensure that materials and furniture for indoor and outdoor use are of sturdy and safe construction, easy to clean and free of hazards that may be injurious to children.

(k) The facility shall ensure that toilet facilities meet the following requirements:

1. At least one toilet, wash basin and bath tub or shower is provided for every six children in the facility. These facilities shall not be located more than one floor from any bedroom; and

2. A supply of hot tap water at a minimum temperature of not less than 120 degrees Fahrenheit and at a maximum temperature not more than 125 degrees Fahrenheit and cold running water is provided at all times in accordance with anticipated needs.

(l) A facility utilizing a kitchen facility or food preparation area shall ensure that the cooking equipment and kitchen facility are kept clean and sanitary and are operated in compliance with applicable provisions of the State Sanitary Code at N.J.A.C. 8:24.

(m) The facility shall obtain prior approval from the Office of Licensing for all space used by the children.

(n) The facility shall not care for more children than the number specified in the certificate of approval.

(o) The facility shall meet the following space requirements to ensure the safety, treatment, recreational, dining and sleeping needs of the children, including:

1. Adequate space for the implementation of treatment services, including individual, group and family counseling sessions and treatment team meetings;

2. A recreation room or area that can accommodate indoor individual or group activities;

3. A dining area large enough to accommodate tables and chairs for all the children; and

4. Rooms for sleeping:

i. Any bedroom used by a child shall have a minimum ceiling height of seven feet and six inches.

ii. Any bedroom containing a single bed occupied by one child shall provide a minimum of 70 square feet of floor space, including space that is occupied by furniture.

iii. Any bedroom containing two or more single beds and occupied by more than one child shall provide a minimum of 70 square feet of floor space for the first child and 50 square feet of floor space for each additional child, including space that is occupied by furniture.

iv. Any bedroom containing bunk beds or any combination of single beds and bunk beds shall provide 50 square feet of floor space for each child, including space that is occupied by furniture.

§ 3A:55-4.5 Emergency evacuation instructions, medical emergencies, fire prevention, first aid, and equipment

(a) The facility shall prepare and post on each floor written emergency evacuation instructions that include:

1. A diagram showing how the facility is to be evacuated in the event of an emergency; and

2. The location of fire alarms and fire extinguishers.

(b) The facility shall maintain the following information near a staff telephone or other accessible area for use in the event of a medical emergency:

1. The name, address and telephone number of the physician retained by the facility or of the health facility to be used in emergencies;

2. The location of written authorizations from parents for emergency medical care for each child;

3. The procedure for obtaining emergency transportation;

4. The procedure for obtaining substitute or on-call supervision, if needed;

5. The telephone numbers of the local police, fire department, ambulance service and poison control centers; and

6. The location of the first aid kit and any additional first aid supplies.

(c) The facility shall prepare written fire prevention instructions, which specify that:

1. The facility shall conduct fire drills at least once a month, which shall include all staff members and children, and shall inform all staff members and children of the procedures for leaving the building in an emergency situation;

2. Fire drills shall be conducted on all shifts; and

3. Evacuations should be completed within three minutes. If evacuations are not completed within three minutes, the facility should contact its local fire official for assistance with improving its evacuation time.

4. The facility shall maintain on file a record of each fire drill, which shall include:

i. The date and time of the drill;

ii. The weather condition at the time of evacuation;

iii. A notation of any problems encountered during the drill;

iv. The number of participating children and staff members;

v. The total amount of time taken to evacuate the facility; and

vi. The signature of the staff members conducting the drill.

5. Each facility shall ensure that fire protection requirements, including those for boiler/furnace separation, electrical fire alarm systems, emergency lighting and exit signs conform to all applicable provisions of the NJUFC and the NJUCC; and

6. The facility shall ensure that all staff members are trained in the use and operation of fire extinguishers.

(d) The following equipment shall be placed in a location that is convenient and accessible to staff members:

1. A standard first aid kit, which is fully restocked within 24 hours of use; and

2. The American Red Cross First Aid Manual or its equivalent.

(e) The facility shall prepare written emergency procedures for ensuring children's safety and immediate communication with parents, the placing agency, and the Office of Licensing in the event of an extended power outage, evacuation, lockdown, natural or civil disaster, or other emergency. The procedures shall indicate the plan for informing the parents, the placing agency, and the Office of Licensing of each child's whereabouts. The emergency procedures:

1. Shall be maintained in the facility with the location known and accessible to all staff members;

2. Shall delineate criteria for determining whether to evacuate the facility or to shelter in place; and

3. Shall identify a prioritized list of three possible locations to evacuate to and how to determine another possible location if those locations are unavailable.

(f) The procedures shall indicate how the facility notifies the Office of Licensing, and, when appropriate, the local law enforcement agency or emergency management office of:

1. The facility's name and location;

2. The number, ages, and type(s) of children served;

3. The number of staff;

4. The need for emergency transportation;

5. The location to which children and staff will be evacuated;

6. The plan for a lockdown; and

7. The plan for reuniting children with their parents or other approved provider or entity, when appropriate.

§ 3A:55-4.6 Prohibition on the use of tobacco products

(a) The facility shall prohibit the smoking of tobacco products or the use of smokeless tobacco by children.

(b) The facility shall ensure that staff members comply with the provisions of N.J.S.A. 2A:170-51, which prohibits any person from directly or indirectly selling, giving or furnishing to a minor under 18 years of age any cigarettes made of tobacco or any matter or substance that can be smoked, or any cigarette paper or tobacco in any form, including smokeless tobacco.

(c) The facility shall maintain a smoke-free environment in all buildings on the facility premises and in all vehicles used to transport children.

(d) The facility may permit staff members, parents and adult visitors to smoke in a designated area outside the building(s) on the premises of the facility or in vehicles that are not used to transport children.

§ 3A:55-5.1 General requirements for director and all staff members

(a) The director and every staff member shall:

1. Be of good character and reputation;

2. Be in sufficient physical, mental and emotional health to perform his or her job duties satisfactorily; and

3. Possess skills, attributes and characteristics conducive to and suitable for operating a facility or dealing with children, as applicable.

(b) Prior to hiring or utilizing a director or a staff member who will be working at the facility, the facility shall secure and maintain on file:

1. A signed application for employment from each individual, indicating the applicant's name, address and telephone number, education and work experience, and disclosure of the presence or absence of criminal convictions. The employment application shall be updated to indicate the reasons for discontinuance of employment, if applicable;

2. Two written or two verbal references on each individual. These references shall be secured from former employers or other persons who have knowledge of the individual's work experience or education and who can attest to the individual's suitability to work with children. The verbal references shall be documented in writing by the facility; and

3. Documentation from the Department showing compliance with a Criminal History Record Information background check, as specified in N.J.A.C. 3A:55-5.6, and a Child Abuse Record Information background check, as specified in N.J.A.C. 3A:55-5.7, for the director and each staff member.

(c) Failure by the director or other staff member to comply with the requirements specified in (a) and (b) above, or any evidence demonstrating unfitness or unsuitability to fulfill the responsibilities and duties of his or her position or to serve or deal with children in an appropriate manner, shall constitute grounds for one or more of the following actions:

1. Removal of the director or staff member from his or her position by the governing board;

2. Reassignment to other duties that do not involve contact with children;

3. Termination from the facility; or

4. Denial, refusal to renew, suspension, or revocation of the facility's certificate of approval by the Office of Licensing.

(d) The facility shall disclose to the Office of Licensing, in writing, information about and circumstances surrounding any previous denial, suspension, revocation, or refusal to renew a certificate of approval or a license to operate a facility either by the Office of Licensing or by the licensing agency of another state. Evidence of a previous denial, suspension, revocation, or refusal to renew a certificate of approval or license, shall not in and of itself result in an automatic disqualification of the prospective facility to secure a certificate of approval for another or the same facility, but shall constitute grounds for the Office of

Licensing to investigate the circumstances that led to the original negative action and make a determination as to whether to reject or process the new application for a certificate of approval.

(e) Requirements to prevent child abuse or neglect are as follows:

1. The director or any staff member shall verbally notify the Department's toll-free hotline, 1-877-NJ-ABUSE (652-2873), immediately whenever there is reasonable cause to believe that a child has been subjected to child abuse or neglect by a staff member or any other person, pursuant to N.J.S.A. 9:6-8.9, 8.10, 8.13, and 8.14. This provision shall also apply to facilities located outside of New Jersey, notwithstanding the child abuse and neglect provisions of the state in which the facility is located;

2. The facility shall report any suspected abuse or neglect of the child by his or her parents or other family members to the Division;

3. In addition to the reporting requirements specified in (e)1 above, the facility shall notify the Division worker, if applicable, and parents of any unusual incidents that occurred at the facility and that might indicate possible child abuse or neglect involving the child. Notifications shall be made on the same day that the incident occurred. Incidents may include, but are not limited to: acts of aggression, violent or destructive behavior, suicidal threats or behavior, homicidal threats, inappropriate sexual behavior, running away, withdrawal or passivity, drug or alcohol abuse, or significant changes in the child's behavior or habits. The facility shall maintain on file a record of incidents and documentation that the parents and Division worker, if applicable, have been informed of those incidents.

4. The Department, during the course of investigating an allegation of child abuse and neglect, may determine that immediate, corrective action is necessary to protect the children whenever:

i. The director or staff member has been found by the Department's Institutional Abuse Investigation Unit (IAIU) to pose a risk of harm to children;

ii. The director or staff member has committed an act of child abuse or neglect, as substantiated by the IAIU; or

iii. The director or staff member has been convicted of such acts;

5. Whenever the IAIU makes a determination, the governing board or director shall carry out the Department's recommendation for immediate remedial action and long term corrective action. Remedial action may include, but not be limited to:

i. Removal or suspension of the affected director or staff member from the facility or reassignment to other duties that do not involve contact with the children; or

ii. When the director or staff member resides at the facility, removal of the affected employee from the premises;

6. A suspension, removal, or reassignment, as specified in (e)5 above, shall remain in effect until the results of the Department's investigation have been determined, and a final decision in the matter has been rendered by the Department; and

7. If an allegation of child abuse or neglect is substantiated against the director or a staff member, the facility shall immediately terminate the individual's employment at the facility. If an allegation

of child abuse or neglect is substantiated against the director, the Office of Licensing shall deny, suspend, revoke, or refuse to renew the certificate of approval, as applicable. The facility may appeal the denial, suspension, revocation, or refusal to renew a certificate to the Office of Licensing, as specified in N.J.A.C. 3A:55-2.4.

(f) The facility shall utilize medical, dental, and psychological personnel serving children on either a staff or community provider basis who shall:

1. Be responsible for ensuring that the medical, dental, and psychological needs of the children are met; and

2. Be licensed to practice in the state where the staff member or community provider is located, as required by the laws of that state.

§ 3A:55-5.2 Staff qualifications

(a) Residential child care facilities shall have a full-time administrator or director, social service staff, teaching staff members (if the facility provides an on-grounds educational program), medical and nursing staff, child care staff, a staff member(s) designated to plan and implement the facility's recreational program, a staff member(s) designated to direct and be responsible for food services, and staff who shall be responsible for daily housekeeping and maintenance.

(b) The full-time administrator or director of the facility shall:

1. Be at least 21 years of age;

2. Have one of the following qualifications:

i. A bachelor's degree in social work, psychology or related field from an accredited college or university and four years of professional experience in the human services field, two of which shall have been in a supervisory or administrative position;

ii. A master's degree from an accredited graduate school in social work, psychology, or a related field and three years of professional experience in the human services field;

3. For publicly-operated facilities, meet the requirements of the Civil Service Commission for the position, if applicable;

4. Meet the requirements for a licensed clinical social worker or a licensed social worker as specified in N.J.A.C. 13:44G-4.1 and 4.2 and have three years of professional experience in the human services field; or

5. Meet the requirements for a certified social worker as specified in N.J.A.C. 13:44G-4.3, have a bachelor's degree in social work, psychology or related field from an accredited college or university and have three years of professional experience in the human services field, one of which shall have been in a supervisory or administrative position;

6. Be responsible for implementing the overall planning, operation, and management of the facility, including the facility's oversight and supervision of full-time, part-time, or consultant physicians, advanced practice nurses, recreational, and food programs;

7. Designate staff members to be in charge at all times during his or her absence;

8. Be on call to assist the staff in admissions, emergencies, and/or other responsibilities;

9. Be responsible for ensuring that all staff members receive an annual performance evaluation;

10. Be responsible for ensuring that all staff members' work schedules and time sheets are maintained;

11. Be responsible for ensuring that a daily log book, separate log book, or the child's case record contains a written notation of all visits to children;

12. Be responsible for ensuring that on-duty staff members complete entries in the daily log book that reflect the activities and events of each day;

13. Be responsible for maintaining aggregate statistical information on children served, including the date of each admission, date of discharge, and reason for each discharge; and

14. If qualified under (b)2i or ii above, not supervise a licensed clinical social worker, licensed social worker or certified social worker.

(c) The social services/clinical director of the facility shall:

1. Be at least 21 years of age;

2. Have one of the following qualifications:

i. A bachelor's degree in social work, psychology or related field from an accredited college or university and three years of professional clinical experience in the human services field, one year of which shall have been in a supervisory or administrative position;

ii. A master's degree from an accredited graduate school in social work, psychology, or a related field and two years of professional experience in the human services field;

3. For publicly-operated facilities, meet the requirements of the Civil Service Commission for the position, if applicable;

4. Meet the requirements for a licensed clinical social worker or a licensed social worker as specified in N.J.A.C. 13:44G-4.1 and 4.2 and have three years of professional experience in the human services field; or

5. Meet the requirements for a certified social worker as specified in N.J.A.C. 13:44G-4.3, have a bachelor's degree in social work, psychology or related field from an accredited college or university and have three years of professional experience in the human services field, one of which shall have been in a supervisory or administrative position;

6. Ensure that adequate clinical and direct care staff coverage is enhanced when clinically indicated to accommodate changes in the population;

7. Ensure that any staff member or consultant that utilizes the title or designation of social worker, licensed clinical social worker, licensed social worker, certified social worker or any abbreviations such as LCSW, LSW or CSW, is certified or licensed as specified in N.J.A.C. 13:44G-4.1 and 4.2;

i. All facilities located in a state other than New Jersey shall ensure that social work staff and social work supervisors are certified or licensed pursuant to that state's laws or requirements, if applicable;

8. Be responsible for the overall treatment planning for children;

9. Provide support and technical assistance to the social services staff;

10. Provide clinical supervision to staff and ensure that social services staff receive job performance evaluations; and

11. If qualified under (c)2i or ii above, not supervise a licensed clinical social worker, licensed social worker or certified social worker.

(d) Each social worker or staff member who provides social services shall:

1. Be at least 21 years of age;

2. Provide services for children as outlined in the treatment plan; and

3. Have one of the following qualifications:

i. A bachelor's degree in social work, psychology, or related field from an accredited college or university and one year of professional experience in the human services field, except that any person who does not meet the qualifications in (c)2iv and v above and provides services as specified in (d)2 above shall:

a) Only provide social work services in the course of employment with the facility;

b) Not provide psychotherapeutic counseling to residents;

c) Not advertise or represent themselves as a licensed clinical social worker, licensed social worker or certified social worker; or

d) Not use any title or name, the use of which is restricted by section 4 of P.L. 1991, c.134, the Social Worker's Licensing Act; or

ii. A master's degree from an accredited graduate school in social work, psychology, or a related field, except that any person who does not meet the qualifications in (c)2iv and v above and provides services as specified in (d)2 above shall:

a) Only provide psychotherapeutic counseling under the supervision of a licensed clinical social worker or other State-licensed mental health professional;

b) Not advertise or represent themselves as a licensed clinical social worker, licensed social worker or certified social worker; or

c) Not use any title or name, the use of which is restricted by section 4 of P.L. 1991, c.134, the Social Worker's Licensing Act; or

d) Meet the requirements of the Civil Service Commission for the position, if applicable.

iii. Have a minimum of two years of experience working with children who have a history of sexual offenses, physically assaultive behavior, fire setting, or complex behavioral or mental health needs, if providing one or more of the following services to children:

a) Providing individual therapy;

b) Implementing group therapy sessions specific to the problems and treatment needs of the children; or

c) Implementing treatment modalities and plans specific to the problems and treatment needs of the children.

(e) The child care director of the facility shall:

1. Be at least 21 years of age;

2. Have one of the following qualifications:

i. A bachelor's degree in the human services field from an accredited college or university and three years of professional experience in the human services field, two years of which shall have been in a supervisory or administrative position in a residential child care facility, group home or children's shelter;

ii. A master's degree from an accredited graduate school in the human services field and one year of professional experience in the human services field in a residential child care facility, group home or children's shelter; or

iii. For publicly-operated facilities, meet the requirements of the Civil Service Commission for the position, if applicable;

iv. Have a minimum of three years of experience working with children who have a history of sexual offenses, physically assaultive behavior, fire setting, complex behavioral or mental health needs, if providing services to children, including one or more of the following:

a) Ensuring that the minimum staff-to-child ratios are maintained;

b) Coordinating the group therapy sessions for children who have a history of sexual offenses, physically assaultive behavior, complex behavioral or mental health needs, or fire setting with the social services/clinical director; or

c) Ensuring that child care staff implement the treatment modalities and plans specific to the problems and treatment needs of the children in conjunction with the social services/clinical coordinator.

3. Be responsible for the daily operation of the child care program; and

4. Ensure that all child care staff receive job performance evaluations.

(f) Each child care staff member shall:

1. Be at least 18 years of age;

2. Provide daily care and supervision of the children;

3. Inform the social service staff members or director of any incidents that may impact on the child's treatment planning, as specified in N.J.A.C. 3A:55-6.1 and 6.2;

4. Have one of the following qualifications:

i. A high school or high school equivalency diploma and one year of experience working with children in a group setting;

ii. An associate's or bachelor's degree from an accredited college or university in a field that is unrelated to social work or psychology and six months experience working with children in a group setting;

iii. An associate's or bachelor's degree from an accredited college or university in social work, psychology or a related field; or

iv. Meet the requirements of the Civil Service Commission for the position, if applicable; and

v. Have a minimum of one year of experience working with children who have a history of sexual offenses, physically assaultive behavior, complex behavioral or mental health needs, or fire setting, if providing services to children, including one or more of the following:

a) Providing supervision of children;

b) Assisting the social services/clinical director or social worker with group therapy sessions specific to the problems and treatment needs of the children; or

c) Implementing treatment modalities and plans specific to the problems and treatment needs of the children under the supervision of the social service/clinical director or social service staff.

(g) For those persons who do not meet the one-year experience requirement for a child care staff member, specified in (f)5 above, the facility shall provide a pre-service training curriculum prior to their employment at the facility. The pre-service training shall include topics related to the treatment and supervision of children with complex behavioral or mental health needs.

(h) Facilities may hire persons who do not meet the qualifications specified in (e) above, but who offer a background or life experience that demonstrate characteristics, skills, and attributes that would enable them to work with children in a positive manner. The facility shall develop and maintain on file a policy that delineates the criteria for hiring staff members who do not meet the qualifications specified in (e) above. The criteria shall include, but not be limited to, the following:

1. The person shall have life experiences that deal with raising a child, providing resource care, participating in volunteer activities with a child, or adopting a child;

2. The person shall exhibit characteristics, skills, and attributes that would enable him or her to work effectively and sensitively with emotionally disturbed or handicapped children in a group setting; and

3. The person, after he or she is hired, shall work together with an experienced staff member for an initial probationary period of at least six months unless terminated for cause prior to completing the six-month probationary period. After this initial six month period has ended, the facility shall review the person's work performance, document his or her ability to continue work without being supervised by an experienced staff member and may either:

i. Appoint the probationary staff member to fill the position as a child care staff member;

ii. Extend the initial six-month period to further evaluate the performance of the probationary staff member and continue to have the probationary staff member supervised by an experienced staff member; or

iii. Terminate the probationary staff member after the initial six-month period or any extension of the initial six-month period for failing to perform the job duties and responsibilities of the position.

(i) Each staff member designated to plan and implement the facility's recreational program shall:

1. Be at least 21 years of age;

2. Meet the qualification(s) for child care staff as specified in (f) above; and

3. Have at least three years experience in planning or implementing recreational activities for children in residential child care centers, group homes, children's shelters, children's camps or Boy Scouts/Girl Scouts.

(j) Education staff of the facility including administrative, supervisory, and teaching staff shall comply with the staff qualifications, certifications, licenses, and experience requirements of the New Jersey Department of Education or the equivalent agency in the state where the facility is located.

(k) Each physician, physician assistant, advanced practice nurse, nurse, dentist, psychologist, speech therapist, physical therapist, and occupational therapist employed by the facility or providing services on a contracted basis to the facility shall:

1. Be licensed/credentialed to practice in the state where the staff member or community provider is located, if required by the laws of that state; and

2. Be responsible for ensuring that the needs of the children for medical, dental, psychological, psychiatric or other services are met.

(l) Each staff member designated to direct and be responsible for providing food services shall:

1. Be registered or eligible for registration by the Commission on Dietetic Registration of the American Dietetic Association or meet the applicable requirements established by the state where the facility is located;

2. Meet the requirements of the Child Nutrition Program;

3. Have a bachelor's degree from a college or university with a major in foods, nutrition, food service or institution management, or the equivalent course work for a major in the subject area; and have completed a dietetic internship accredited by the American Dietetic Association or a dietetic traineeship approved by the American Dietetic Association or have one year of full-time, or full-time equivalent, experience in nutrition and/or food service management in a health care setting;

4. Have a master's degree plus six months of full-time, or full-time equivalent, experience in nutrition and/or food service management in a health care setting; or

5. Develop a plan approved by a dietician or dietary consultant who meets the qualifications specified in (l)1 through 4 above.

§ 3A:55-5.3 Staff to child ratios

(a) Each residential child care facility shall meet the following staff to child ratios:

1. The facility shall have a social services/clinical director when its capacity is more than 80 children;

2. The facility shall have a child care director when its capacity is more than 50 children;

3. There shall be at least one social services worker for every 15 children in facilities that provide services to children with emotional or behavioral problems, drug and alcohol problems, or physical disabilities, and in adventure programs that serve children with emotional or behavioral problems;

4. There shall be at least one full-time nurse at a facility that serves at least 35 children. A facility that serves fewer than 35 children shall have at least a part-time nurse who provides the equivalent of one hour of services per child each week;

5. There shall be at least one child care staff member for every six or fewer children during the waking hours;

6. During sleeping hours, there shall be at least one awake child care staff member in each living unit in the facility and at least one additional staff member awake and on-duty for each 50 children or fraction thereof, in the facility; and

7. There shall be at least one child care staff member awake and on-duty in living units that are co-educational during sleeping hours.

(b) A facility that has a capacity of 30 or fewer children may utilize the administrator/director of the facility to serve as the director of one other program area, provided that such person meets the qualifications for that position.

§ 3A:55-5.4 Staff training and development

(a) The facility shall develop a training plan and the director shall ensure that all staff members, upon employment, are trained in:

1. The facility's statement of purpose, as specified in N.J.A.C. 3A:55-3.1;

2. The facility's behavior management policy and search and seizure policy, if any, as specified in N.J.A.C. 3A:55-6.14 and 6.15;

3. Emergency procedures, as specified in N.J.A.C. 3A:55-4.5(a), (b) and (c);

4. Protocols for medication, as specified in N.J.A.C. 3A:55-7.4 and 7.5;

5. Infection control procedures, as specified in N.J.A.C. 3A:55-7.8;

6. The facility's techniques for safe physical and mechanical restraint, if applicable, as specified in N.J.A.C. 3A:55-6.13(i) and (k);

7. The facility's policy and procedures for utilizing a behavior management room, if applicable, as specified in N.J.A.C. 3A:55-6.13(m); and

8. The facility's policy and procedures for utilizing exclusion, as specified in N.J.A.C. 3A:55-6.13(j).

(b) The facility shall ensure that every new staff member is accompanied on his or her duties by an experienced staff member as part of an orientation, until the new staff member is familiar with daily routines and operations of the facility.

(c) The facility shall document in each staff member's record that all social service and child care staff members, including full and part-time staff members, receive a minimum of a total of 14 hours of training each year, in the following areas:

1. The principles of behavior management;

2. Alcohol, tobacco and substance abuse;

3. Human sexuality and AIDS;

4. Suicide prevention;

5. Gang activity awareness;

6. Bullying activity awareness;

7. Human trafficking;

8. Trauma and adolescent brain development; and

9. Reduction and elimination of restraints.

(d) The facility's training plan may include in-depth discussions at staff meetings, attendance at workshops, conferences or relevant college courses.

§ 3A:55-5.5 Volunteers and student interns

(a) The facility may use volunteers or student interns to support the activities of regular paid staff members, but shall not use volunteers or student interns to substitute for paid staff members.

(b) The facility shall ensure that volunteers and student interns are briefed fully on any special needs or problems they might encounter while working with the children.

(c) The facility shall ensure that volunteers and student interns who have contact with children or parents receive an orientation to the facility's program and are supervised by paid staff members. Volunteers and student interns shall receive authorization from the facility prior to accompanying children off-grounds on trips, medical appointments and visits.

(d) The facility shall require an application, disclosure and references, as specified in N.J.A.C. 3A:55-5.1(b)1 and 2, for volunteers and student interns who provide activities or transportation to a child by themselves.

(e) The facility shall secure and maintain on file documentation from the Department showing compliance with a Criminal History Record Information background check and a Child Abuse Record Information background check, as specified in N.J.A.C. 3A:55-5.1(b)3, for each volunteer and student intern.

§ 3A:55-5.6 Criminal History Record Information background checks

(a) As a condition of securing and maintaining a certificate, the facility shall ensure that a State and Federal Criminal History Record Information (CHRI) fingerprint background check, in keeping with P.L. 2003, c.186, is completed for the director and each staff member.

(b) If the director refuses to consent to or cooperate in a CHRI background check, the Office of Licensing shall deny, suspend, revoke, or refuse to renew the certificate, as applicable. The facility may appeal the denial, suspension, revocation, or refusal to renew the certificate, as specified in N.J.A.C. 3A:55-2.4.

(c) If a staff member refuses to consent to or cooperate in a CHRI background check, the facility shall immediately terminate the staff member's employment at the facility.

(d) If any person identified in (a) above has a record of criminal conviction, the Department shall review the record with respect to the type and date of the criminal offense and make a determination as to the suitability of the person to receive a certificate or to administer or work at the facility.

(e) A person shall be disqualified from receiving a certificate or administering or working at a facility if that person ever committed a crime which resulted in a conviction for:

1. A crime against a child, including endangering the welfare of a child and child pornography pursuant to N.J.S.A. 2C:24-4, or child molestation as set forth in N.J.S.A. 2C:14-1 et seq.;

2. Abuse, abandonment or neglect of a child pursuant to N.J.S.A. 9:6-3;

3. Endangering the welfare of an incompetent person pursuant to N.J.S.A. 2C:24-7;

4. Sexual assault, criminal sexual contact or lewdness pursuant to N.J.S.A. 2C:14-2 through 14-4;

5. Murder pursuant to N.J.S.A. 2C:11-3 or manslaughter pursuant to N.J.S.A. 2C:11-4;

6. Stalking pursuant to section 1 of P.L. 1992, c.209 (N.J.S.A. 2C:12-10);

7. Kidnapping and related offenses including criminal restraint, false imprisonment, interference with custody, criminal coercion, or enticing a child into a motor vehicle, structure, or isolated area pursuant to N.J.S.A. 2C:13-1 through 13-5 and section 1 of P.L. 1993, c.291 (N.J.S.A. 2C:13.6);

8. Arson pursuant to N.J.S.A. 2C:17-1, or causing or risking widespread injury or damage, which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:17-2;

9. Aggravated assault, which would constitute a crime of the second or third degree pursuant to subsection b of N.J.S.A. 2C:12-1;

10. Robbery, which would constitute a crime of the first degree pursuant to N.J.S.A. 2C:15-1;

11. Burglary, which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:18-2;

12. Domestic violence pursuant to P.L. 1991, c.261 (N.J.S.A. 2C:25-17 et seq.);

13. Terroristic threats pursuant to N.J.S.A. 2C:12-3;

14. An attempt or conspiracy to commit any of the crimes or offenses listed in (e)1 through 13 above; or

15. In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or offenses described in (e)1 through 14 above.

(f) As an exception to (e) above, the Department may approve the employment at, or administration of, a facility by an individual convicted of a crime specified in (e) above if all of the following conditions are met:

1. The Department determines that the crime does not relate adversely to the position the individual is employed in pursuant to the provisions of P.L. 1968, c.282 (N.J.S.A. 2A:168A-1 et seq.);

2. The conviction is not related to a crime committed against a child, as specified in (e) above;

3. The facility documents that the individual's employment or administration of the facility does not create a risk to the safety or well-being of children due to the nature and requirements of the position. As necessary, the facility shall identify restrictions regarding the individual's contact with, care or supervision of children;

4. The facility documents that the individual is uniquely qualified for the position due to specific skills, qualifications, characteristics or prior employment experiences; and

5. The Department determines that the individual has affirmatively demonstrated rehabilitation, pursuant to the factors specified in (g) below.

(g) For crimes and offenses other than those cited in (e) above, an individual may be eligible to receive a certificate or to administer or work at a facility if the individual has affirmatively demonstrated to the Department clear and convincing evidence of rehabilitation.

1. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

i. The nature and responsibility of the position at the facility that the convicted individual would hold, has held or currently holds, as the case may be;

ii. The nature and seriousness of the offense;

iii. The circumstances under which the offense occurred;

iv. The date of the offense;

v. The age of the individual when the offense was committed;

vi. Whether the offense was an isolated or repeated incident;

vii. Any social conditions that may have contributed to the offense; and

viii. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the individual under their supervision.

2. Upon receipt of documentation submitted by the facility, indicating why the individual at issue should not be precluded from administering or working at the facility, the Department, after assessing the facts on a case-by-case basis, shall make the final determination regarding the

individual's rehabilitation, in keeping with the provisions of the State Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq.

3. The Department shall make the final determination regarding the suitability of the director of a facility with a criminal conviction other than those cited in (e) above.

4. For a current or prospective staff member with a criminal conviction other than those cited in (e) above, the facility director or the agency's board of directors shall make a determination regarding the individual's suitability upon the Department's determination that the individual has affirmatively demonstrated rehabilitation.

(h) If the director of a facility has knowledge that any individual specified in (a) above has criminal charges pending against the individual, the director shall promptly notify the Department to determine whether or not any action concerning the individual is necessary in order to ensure the safety of the children who are placed in the facility.

(i) If the Department is notified that any individual specified in (a) above is convicted of a crime or offense after the CHRI has been completed, the Department shall make a determination whether to suspend or revoke the certificate or require the facility to terminate the individual's employment, as applicable.

(j) Upon completion of the CHRI for an individual specified in (a) above, the Department shall notify the individual, and the facility as applicable, in writing, of the individual's qualification or disqualification for employment or service under section 4 or 5 of P.L. 2003, c.186 (N.J.S.A. 30:4C-27.19 or 30:4C-27.20).

1. If the individual is disqualified, the convictions that constitute the basis for the disqualification shall be identified in the written notice to the individual.

2. The individual shall have 14 days from the date of the written notice of disqualification to challenge the accuracy of the CHRI.

3. If no challenge is filed or if the determination of the accuracy of the CHRI upholds the disqualification, the Department shall notify the facility that the individual has been disqualified.

4. The facility shall immediately terminate the disqualified individual's employment at the facility.

5. If the disqualified individual is a facility director, the Division shall deny, suspend, revoke or refuse to renew the certificate, as applicable.

(k) A facility that has received an employment application from an individual, or currently employs a director or staff member, shall be immune from liability for acting upon or disclosing information about the disqualification or termination of that individual to another facility seeking to employ that individual, if the facility has:

1. Received notice from the Department or the agency's board of directors, as applicable, that the applicant, director or staff member has been determined by the Department or the board of directors to be disqualified from employment or service at a facility pursuant to P.L. 1968, c.282 (N.J.S.A. 2A:168A-1 et seq.); or

2. Terminated the employment of a staff member because the individual was disqualified from employment or service at the facility on the basis of a conviction of a crime pursuant to P.L. 1968, c.282 (N.J.S.A. 2A:168A-1 et seq.) after commencing employment or service at the facility.

(l) A facility that acts upon or discloses information pursuant to (k) above shall be presumed to be acting in good faith unless it is shown by clear and convincing evidence that the facility acted with actual malice toward the individual who is the subject of the information.

§ 3A:55-5.7 Child Abuse Record Information background checks

(a) As a condition of securing and maintaining a certificate, the facility shall provide written consent to the Department from the director and each staff member for a Child Abuse Record Information (CARI) background check to be conducted.

(b) If the director refuses to consent to or cooperate in a CARI background check, the Office of Licensing shall deny, suspend, revoke, or refuse to renew the certificate, as applicable. The facility may appeal the denial, suspension, revocation, or refusal to renew a certificate, as specified in N.J.A.C. 3A:55-2.4.

(c) If a staff member refuses to consent to or cooperate in a CARI background check, the facility shall immediately terminate the staff member's employment at the facility.

(d) Upon receipt of written consent from an individual specified in (a) above, the Division shall conduct a search of its records to determine if an allegation of child abuse or neglect has been substantiated, pursuant to section 4 of P.L. 1971, c.437 (N.J.S.A. 9:6-8.11), against the individual.

1. The Department shall consider incidents of child abuse and neglect that were substantiated on or after June 29, 1995, to ensure that the perpetrator has had an opportunity to appeal a substantiated finding of child abuse or neglect.

2. The Department may consider incidents substantiated prior to June 29, 1995 if the Department, in its judgment, determines that the perpetrator poses a risk of harm to children in a facility. In cases involving incidents substantiated prior to June 29, 1995 in which the Department determines that the individual is disqualified, the Department shall offer the perpetrator an opportunity for a hearing to contest the substantiation.

(e) If the Department determines that an allegation of child abuse or neglect has been substantiated against an individual specified in (a) above, the facility shall immediately terminate the individual's employment at the facility.

(f) If the Department determines that an allegation of child abuse or neglect has been substantiated against a director, the Office of Licensing shall deny, suspend, revoke, or refuse to renew the certificate of approval, as applicable.

1. The facility may appeal the denial, suspension, revocation or refusal to renew, as specified in N.J.A.C. 3A:55-2.4.

2. If the incident was substantiated prior to June 29, 1995, the Department shall notify the director in writing that the individual may request a hearing to contest the substantiation.

(g) If the Department determines that an allegation of child abuse or neglect has been substantiated against a staff member, the facility shall notify the staff member in writing that the termination of employment is based on a substantiated allegation of child abuse or neglect. If the incident was substantiated prior to June 29, 1995, the facility shall notify the staff member in writing that the staff member may request a hearing to contest the substantiation.

§ 3A:55-5.8 Background check procedures for New Jersey facilities

(a) Prior to the opening of a new facility located in New Jersey, the facility shall ensure that a request for a Criminal History Record Information (CHRI) background check, as specified in N.J.A.C. 3A:55-5.6, and a Child Abuse Record Information (CARI) background check, as specified in N.J.A.C. 3A:55-5.7, is submitted for each person identified in N.J.A.C. 3A:55-5.6(a) and 5.7(a).

(b) Prior to the first renewal of a certificate on or after March 26, 2004 for an existing facility located in New Jersey, the facility shall ensure that a request for a CHRI background check, as specified in N.J.A.C. 3A:55-5.6, is submitted for the director and each staff member.

(c) Prior to each renewal of a certificate on or after March 26, 2004 for an existing facility located in New Jersey, the facility shall ensure that a request for a CARI background check, as specified in N.J.A.C. 3A:55-5.7, is submitted for the director and each staff member.

(d) Within two weeks after a new staff member begins employment at a facility located in New Jersey, the facility shall ensure that a request for a CHRI background check, as specified in N.J.A.C. 3A:55-5.6, and a CARI background check, as specified in N.J.A.C. 3A:55-5.7, is submitted for the individual.

(e) An individual shall not be left alone as the only adult caring for a child at the facility until documentation from the Department showing compliance with a CHRI check and CARl check for the individual has been received by the facility.

§ 3A:55-5.9 Background check procedures for out-of-State facilities

(a) For a facility located outside New Jersey, the facility shall ensure that the director and each applicant or staff member meet all applicable laws and regulations in that state governing criminal history record background checks and child abuse record information checks that may be required as a condition of employment.

(b) In the event that criminal history record background checks and child abuse record information checks are not mandated in that state, the facility shall require that the director and each applicant or staff member make a disclosure of any criminal conviction. The results of the disclosure shall be made available to the Department, so that the Department can determine the suitability of the individual for employment at the facility during the time children who are residents of New Jersey are placed in the facility.

§ 3A:55-6.1 Treatment plan for children in residential child care facilities

(a) The facility shall develop, implement and maintain on file a written individual treatment plan for each child. The plan shall delineate how to meet that child's needs and to remediate the problems and behavior in order to assist the child in completing the program.

(b) The facility shall form a treatment team that is responsible for the development of a treatment plan for each child. The treatment team shall consist of each of the following:

1. Staff members representing the clinical and social work components;

2. Staff members representing the child care component;

3. Staff members representing the administration of the facility, if necessary;

4. Representatives from the child's responsible school district and/or current school district, if necessary;

5. The placing agency's representative; and

6. The child's parent(s), unless there is an explicit legal or medical basis to exclude them.

(c) The facility shall document in the child's record that the placing agency's representative, the child's therapist, the parents, the child's responsible school district staff, and physician or nurse, if appropriate, were invited to participate as members of the treatment team and assist in the development of the treatment plan and all subsequent revisions.

(d) The treatment team shall:

1. Develop a treatment plan for each child within 30 calendar days following his or her admission;

2. Review and revise it as needed within three months after the 30-day treatment plan; and

3. Review and revise it as needed at least every six months thereafter.

(e) The treatment plan shall include the following information:

1. The name of the child;

2. The date of the child's admission;

3. The date when the plan is developed or revised;

4. The names and titles of all persons attending the development or review meeting;

5. The child's social, familial, emotional, behavioral, and academic strengths and weaknesses;

6. A statement of who can and cannot visit the child (if applicable), and the reason(s) why;

7. Specific treatment goals and measurable objectives in each program area and projected time frames for completing each goal and objective;

8. The name of the staff member responsible for the implementation of techniques to be used to achieve each treatment goal and objective;

9. The techniques to be used to achieve each treatment goal and objective;

10. Criteria to be used to determine whether each treatment goal is achieved;

11. A notation of progress made from the previous plan;

12. Documentation of efforts to achieve timely discharge, including, but not limited to, services needed by parents or other persons to whom the child will be discharged; and

13. For children who are 14 years of age or older, how the child is being prepared for self-sufficiency. This information may be documented in the child's individual education plan (I.E.P.). The documentation shall include, but not be limited to, instruction in:

i. Food preparation;

ii. Budgeting and money management; and

iii. Vocational planning and employment search efforts.

(f) The treatment plan for children who have a history of complex behavioral or mental health needs shall include the following information:

1. The name of the child;

2. The date of the child's admission;

3. The date when the plan is developed or revised;

4. The names and titles of all persons either having input or attending the development or review meeting;

5. The child's social, familial, emotional, medical, behavioral, and academic strengths and weaknesses;

6. A statement of who can and cannot visit the child and the reasons, including references to any court orders, if applicable, and any plan for supervised visits;

7. Specific treatment goals and measurable objectives that address the child's inappropriate sexual behavior, physically assaultive behavior, fire setting behavior, complex emotional behavior and mental health needs, and projected time frames for completing each goal and objective. The treatment goals shall also include:

i. Individual therapy sessions for the children as indicated by the clinician(s); and

ii. Group therapy sessions for the children as indicated by the clinician(s);

8. In addition to (f)7 above, specific treatment goals and measurable objectives in each program area and projected time frames for completing each treatment goal and objective;

9. Persons responsible for the implementation of techniques to be used to achieve each treatment goal and objective;

10. The techniques to be used to achieve each treatment goal and objective;

11. Criteria to be used to determine whether each treatment goal is achieved;

12. A notation of progress made from the previous plan;

13. Documentation of efforts to achieve a timely discharge, including, but not limited to, services needed by parents or other persons to whom the child will be discharged;

14. For children who have a history of sexual offenses, documentation that the child was registered in accordance with appropriate community notification laws, if applicable;

15. For children who have a history of sexual offenses, physically assaultive behavior, or fire setting, documentation of the involvement of the child's probation or parole officer, if appropriate; and

16. For children who are 14 years of age or older, documentation of how the child is being prepared for self-sufficiency, including documentation of instruction in:

i. Food preparation;

ii. Budgeting and money management; and

iii. Vocational planning and employment search efforts.

(g) The facility shall send the placing agency a copy of the treatment plan and any revisions to it within 30 calendar days after the treatment planning meeting and retain a copy of the plan in the child's record for at least four years after the child's discharge.

(h) The facility shall ensure that the child's treatment plan and any revisions to it are explained to the child, his or her parents, and all staff members responsible for the plan's implementation. If the facility does not explain the child's treatment plan to the child's parents, the facility shall document in the child's case record the reasons why the plan was not explained to the parents.

§ 3A:55-6.2 Discharge planning

(a) For discharges that can be anticipated, the facility shall develop a plan with the placing agency staff at least 30 days before the child's discharge. The plan shall be sent at least 30 days prior to the child's discharge to the placing agency staff and shall specify the following information:

1. The date of admission;

2. The anticipated or actual date of discharge;

3. Details of the events and circumstances leading to the decision to discharge;

4. The name and address of the individual or agency to whom the child will be discharged and the rationale for planning a discharge to that individual or agency; and

5. An assessment of the child's continuing needs, including, but not limited to, consideration of health care, behavior management and educational or vocational training.

(b) For discharges that were not anticipated at least 30 calendar days ahead of time, the facility shall send the placing agency a written plan at least 10 working days prior to the child's discharge. This plan shall specify the following information:

1. The date of admission;

2. Details of the events and circumstances leading to the discharge;

3. Efforts made to locate a runaway, if relevant;

4. An assessment of the child's continuing needs including, but not limited to, health care, behavior management and educational and vocational training; and

5. Recommendations for providing follow-up services in the child's new environment.

(c) For emergency discharges that result in the immediate placement of the child in a facility such as a detention center, hospital, psychiatric facility, or any other placement outside the facility, the facility shall notify the placing agency by the next working day by telephone. The facility shall send a written discharge plan within 15 days after the child's discharge. This plan shall specify the information outlined in (b)1 through 5 above.

§ 3A:55-6.3 Grouping of children within living units

The facility shall determine the composition and size of children's groups within the living units on the basis of the children's treatment needs, gender, age and level of functioning.

§ 3A:55-6.4 Work and employment

(a) The facility shall not allow a child to be responsible for duties assigned to staff members.

(b) The facility may require children to perform work assignments in the facility that have an instructive value, including normal household chores, so long as these assignments are not scheduled to interfere with a child's school program, other aspects of the treatment or case management plan, or any regularly scheduled program activity for the children in the facility.

(c) The facility's staff members may encourage children to hold part-time employment outside the facility, but shall ensure that the work does not interfere with the child's school program, or other aspects of the treatment or case management plan.

1. The facility may require a child to maintain specific academic and behavioral standards as a condition for seeking or maintaining employment.

2. The facility may prohibit a child's employment, if a child does not maintain appropriate academic or behavioral standards, or if the job is determined to be detrimental to his or her health, safety or well-being.

§ 3A:55-6.5 Money and allowance

(a) The facility shall provide opportunities for all children to receive an allowance or to earn an allowance up to an amount as specified in their placement contract.

(b) The facility shall not require a child to assume responsibility for expenses for his or her care and treatment, laundry, or hygiene supplies, except for amounts needed to pay for damage done to the facility by the child.

1. When a child damages the building or the facility's property, the facility shall identify the child who damaged the building or property in an incident report before requiring the child to pay restitution.

2. The restitution payments shall not exceed 50 percent of a child's weekly income from allowance.

3. Children who are working or have savings shall have the option to make a lump sum payment for intentional damages, if deemed clinically appropriate and consistent with the child's treatment plan.

4. The facility may offer the child the option of performing additional chores in lieu of restitution payments, as long as these chores comply with the provisions specified at N.J.A.C. 3A:55-6.4(b).

§ 3A:55-6.6 Visitation and communication

(a) The treatment team shall determine the family members and friends with whom the child may communicate and visit.

1. The treatment team shall identify visitors with whom the child may have contact at intake and may revise the list at subsequent treatment planning or case management meetings.

2. Between treatment planning or case management meetings, the facility may curtail a child's contact with individuals after consultation with the Division or other placing agency if the facility:

i. Informs the child of the conditions of and reasons for restriction or termination; and

ii. Documents in the child's record the reasons for curtailing contact with the specified individuals.

(b) The facility shall develop a visiting policy and explain the visiting policy to the child and parents at intake. The visiting policy shall specify:

1. The hours for visiting family members and how alternative hours may be arranged;

2. That family visits shall not be denied for a child's infraction of rules, but may be denied if such visits would be contrary to the child's treatment plan;

3. That visitors who appear to be under the influence of drugs or alcohol shall not be allowed to visit or to transport the child;

4. That the child may visit his or her placing agency worker upon reasonable request and that these visits shall not be unreasonably denied; and

5. The hours when a child may visit with friends and whether a child's visits with friends may be curtailed for a child's infraction of the rules.

(c) The facility shall meet the following requirements for the use of the telephone by children:

1. The facility shall permit reasonable access to a telephone by the child for telephone conversations with each Division worker or other professional person or agency.

2. The child shall not be charged a cost for these telephone calls; and

3. The facility shall provide adequate privacy for these telephone calls and all other calls but may locate the telephone in an area where a staff member can observe the child's reactions;

4. The facility shall permit reasonable access to the telephone by the child for telephone conversations with his or her parents. The facility may impose restrictions on these conversations if the following conditions exist:

i. The cost of the telephone calls is prohibitive; or

ii. The facility is complying with a court order which limits the child's contact with his or her parents;

5. When the facility imposes restrictions on a child's access to telephone conversations with his or her parents, as specified in (c)2 above, the facility shall:

i. Explain the nature of any restrictions to the child; and

ii. Document the rationale for imposing restrictions in the child's record;

6. The facility shall develop and maintain on file a written policy governing the use of the telephone by children when they communicate with friends. The facility may impose one or more of the following conditions:

i. Restricting the time and duration of telephone calls;

ii. Requiring the child to pay for telephone calls with friends;

iii. Denying the child use of the telephone for infraction of house rules; and

iv. Requesting the child to identify telephone callers; and

7. The facility shall not use tapes or any other mechanical listening devices to monitor a child's telephone calls.

(d) The facility shall not restrict the amount of mail a child sends or receives, unless a court order stipulates such restriction.

1. The child shall receive a postage allowance and writing materials for corresponding with family, friends and other persons who have a positive impact on the child's treatment.

2. No staff member shall open the child's parcels or letters or read the child's letters unless the child is physically incapable of doing so, and then only in the presence of both the child and another staff member.

3. A staff member may ask a child to open parcels and letters in the staff member's presence along with at least one other staff member only if he or she suspects the contents to be contraband, as specified in N.J.A.C. 3A:55-6.15.

i. If the child refuses to comply with the staff member's request, the facility shall store the parcel or letter in a secure place until the child complies or is discharged.

ii. The facility shall document the rationale for and the outcome of all incidents when a staff member asks a child to open mail in a staff member's presence.

(a) Facilities located in New Jersey shall ensure that school-age children receive educational instruction to which they are entitled under provisions of Federal and State education laws and regulations.

(b) Facilities located in other states shall ensure that school-age children receive educational instruction to which they are entitled under provisions of education laws and regulations of the state in which they are located.

(c) Education shall be provided either in a public school or private educational institution in the community or in an approved on-grounds school operated by the facility.

(d) The facility shall ensure that any child who is legally not attending school is either gainfully employed or enrolled in a training program that teaches necessary life skills or methods of job acquisition.

(e) The facility shall provide or utilize on-grounds or community vocational education services appropriate to the age, skill level, interests and abilities of those children who require such services.

(f) Requirements for facilities operating on-grounds education programs are as follows:

1. The facility shall provide an education program that ensures instruction is given to each school-age child in all specific curriculum areas identified in the Individualized Education Plan, as required by Federal education law, or in the child's treatment plan; and

2. The facility shall inform the child's appropriate school district if its on-grounds education program cannot provide instruction in all specific curriculum areas, as specified in (f)1 above.

(g) Requirements for facilities using off-grounds education programs are as follows:

1. When the facility determines that the child is ready to attend a public or community school, the facility shall make efforts to place the child in that setting and document such efforts in the child's record; and

2. When a child attends school in the community, the facility shall maintain regular contact with the teachers and other appropriate personnel concerning the child's progress.

3. The facility staff shall notify the principal or designee when a child attending a public school in New Jersey will be absent, pursuant to N.J.S.A. 18A:36-25.6.

(h) Requirements for facilities providing vocational programs are as follows:

1. A facility providing a vocational program shall ensure that the vocational services for a child include the following information:

i. Vocational evaluation;

ii. Formulation of vocational goals;

iii. Development of a vocational training plan; and

iv. Provision of skills training, employment counseling, job development and placement services or referral to appropriate sources providing these services.

(i) A facility with an on-grounds education program(s) shall maintain on file copies of all approvals and accreditations of its program and physical facilities from the department of education of the state in which it is located.

(j) The child's education record shall include:

1. Information used in the identification, classification and instruction of the child prior to developing a course of study or training to meet the child's academic or vocational needs, including records from the school district of residence and from previously attended residential facilities;

2. Initial and revised Individualized Education Plans, when legally required for the child;

3. Results of educational testing and evaluations of the child;

4. Reports of the child's academic functioning, completed at regular intervals;

5. A vocational training plan for the child; and

6. If the child attends school in the community, quarterly academic progress reports obtained from the community school.

§ 3A:55-6.8 Recreation

(a) The facility shall plan or provide a balanced on-grounds and off-grounds recreation program. The recreation program shall include planned individual and group activities.

(b) The facility shall have a written schedule of daily planned recreational and leisure time activities.

1. The facility shall ensure that this schedule is developed with input from staff members and children.

2. The facility shall keep these schedules on file for 90 calendar days.

§ 3A:55-6.9 Religion

(a) If a facility's program has a particular religious orientation, the facility shall maintain on file in the facility a written description of its religious orientation and any religious practices or restrictions that are observed. Before the child's admission, the facility shall give this description to the child and the parents and discuss its religious orientation, if any.

(b) The facility shall ensure that each child is afforded the opportunity to participate freely in religious activities and/or services in accordance with his or her own faith or with that of his or her parents.

(c) The facility shall ensure that each child is permitted to attend religious activities and services provided either in the community or on site, and the facility shall arrange for or directly provide transportation, if necessary, for any child who wishes to attend religious activities or services unless deemed clinically inappropriate.

(d) The facility shall not coerce or require children to participate in religious activities.

1. The facility shall not punish children who choose not to participate in religious activities.

2. The facility shall not give special rewards to children for participating in religious activities.

§ 3A:55-6.10 Rest, bedroom and sleep

(a) The facility shall ensure that:

1. Each child is provided with a standard household bed or crib, as age appropriate, in sanitary condition;

2. Each set of bunk beds:

i. Is limited to two in height;

ii. Has railings on the top bunk that are no more than 3 1/2 inches from the top of the bed frame; and

iii. Has mattresses that are at least five inches from the top of the railing;

3. Each bed or crib is equipped with a firm, sanitary, fire retardant mattress and waterproof mattress cover;

4. Each child is provided with sanitary bed linens that are changed weekly, a blanket or other suitable covering that is cleaned or replaced, as necessary, and a pillow;

5. Two or more children do not share the same bed;

6. Children do not share the same bedroom with an adult, unless the adult is their mother and they are in placement in a facility that provides services to pregnant and parenting adolescents;

7. A child does not sleep on the same bed or crib that another child has occupied unless the bed linen is changed;

8. Children who are five years of age or older occupy a bedroom only with members of the same sex;

9. Each bedroom occupied by children has natural light and ventilation provided by one or more windows opening directly to the exterior;

10. An unfinished attic or basement is not used for sleeping purposes;

11. All rooms used as bedrooms are not used for any other purpose;

12. Each child is provided with a chest of drawers or some other permanent arrangement for storage of clothing and other personal belongings, including closet space or the equivalent;

13. Each child is permitted reasonable freedom to express his or her personal tastes in the decoration of his or her bedroom or bedroom area;

14. Each child has the opportunity for at least eight hours of uninterrupted sleep each night. Schedules for waking and retiring shall be adapted according to the ages, physical condition and characteristics of the children in each group;

15. The facility does not permit more than four children to occupy a designated bedroom space for sleeping. If partitions are used to designate a bedroom space, the facility shall ensure that the arrangement and height of partitions shall provide privacy for the occupants of the space;

16. Every bedroom is provided with a reading lamp or other means of artificial light for quiet activities; and

17. Every bedroom window is equipped with screens, curtains, blinds or shades.

§ 3A:55-6.11 Food and nutrition for children

(a) The facility shall ensure that each child is provided with three nutritious meals daily, either in the facility itself or in the community.

1. The facility shall make daily snacks available for children who desire them, unless there is a medical reason not to provide them.

2. The facility shall select, store, prepare and serve food in a sanitary and palatable manner.

3. The facility shall prepare and date menus and keep the menus on file at the facility for a minimum of 90 calendar days.

4. The facility shall provide place settings and eating utensils for children.

5. The facility shall serve meals in a manner that makes mealtime a pleasant social experience.

6. The facility shall not force-feed or otherwise coerce a child to eat, except by order of a physician.

(b) The facility shall ensure that the daily diet for each child includes a balance of foods from the United States Department of Agriculture's basic food groups.

1. The facility shall ensure that each meal contains a sufficient amount of food for each child.

2. The facility shall make available, as necessary, an alternate choice of food for each meal served for children on special diets, with documented food allergies, or who, because of religious beliefs, cannot eat particular foods.

3. The facility shall follow individualized diets and feeding schedules that are submitted to the facility by the child's physician or registered dietician.

§ 3A:55-6.12 Pets

(a) The facility shall ensure that pets kept by or located in the facility regardless of ownership, shall be:

1. Domesticated and non-aggressive;

2. Free from disease;

3. Vaccinated, if applicable, as prescribed by law or as recommended by a licensed veterinarian. The record of the vaccinations shall be maintained on file at the facility, along with the name and address of the licensed veterinarian providing care for the pet;

4. If sick, removed from the area occupied by children, until the pet has been examined by a licensed veterinarian;

5. Effectively controlled by leash, command or cage; and

6. Prohibited from toilet facilities for staff members and children.

(b) The facility shall ensure that animal waste is disposed of in a manner that prevents the material from becoming a community health or nuisance problem. Accepted methods include:

1. Burial;

2. Disposal in sealed plastic bags; and

3. Utilization of:

i. A municipally approved trash removal system; or

ii. A sewage system for feces.

(c) The facility shall ensure that all pet dishes, food and equipment used for pets are kept out of the facility's food preparation and food serving areas when food is being prepared or served.

(d) If a pet poses a health hazard to children, the facility shall take corrective action that is approved by the licensing agency.

(e) The facility shall ensure that pregnant adolescents are not permitted to clean a cat's litter box.

§ 3A:55-6.13 Restrictive behavior management practices

(a) Facilities that choose to utilize restrictive behavior management practices shall develop policies and procedures that assist children in gaining control of their behavior, protect the children from self-harm, protect other children or staff members, and prevent the destruction of property.

(b) The facility shall:

1. Obtain written approval from the Office of Licensing for any restrictive behavior management practice that the facility plans to utilize prior to its implementation with children; and

2. Not utilize restrictive behavior management practices as a means of punishment, for the convenience of staff members, or as a substitute for a treatment program.

(c) Prior to the child's admission, the facility shall:

1. Explain to the parents, the child, and the placing agency any restrictive behavior management practice that is used, the circumstances under which it will be employed, and the possible risks involved; and

2. Obtain written consent for the use of all types of restrictive behavior management practices the facility uses from the child's parents.

(d) The facility shall ensure that the consent form is written in plain language and that either a translated version or an interpreter is available to explain it to non-English speaking or hearing impaired parents.

(e) Whenever the parents refuse to consent to a restrictive behavior management practice, revoke their consent for the practice, or cannot be located to give consent, the facility shall:

1. Refrain from utilizing the practice unless the child presents an imminent danger to self or others, and apply other, non-restrictive interventions until such consent is obtained; and

2. Request that the placing agency obtain the necessary consent, either through administrative action pursuant to an agreement between the parent, the Division and the other placing agency or through legal action, if necessary to protect the best interests of the child.

(f) The facility shall maintain a copy of all signed consent forms in the child's records.

(g) At least 10 working days before each staffing or treatment planning meeting, the facility shall send a letter to the child's parents and to the placing agency, which shall:

1. Inform them of the frequency and duration of any restrictive behavior management practice that was used with the child;

2. Describe how the child responded to the restrictive behavior management practice; and

3. Invite them to the treatment planning meeting to discuss the child's program and treatment status. If they do not attend the treatment plan meeting, the facility shall send the parents a written summary of the treatment plan meeting and a copy of the child's treatment plan.

(h) The facility shall develop and maintain on file in the administrative office a policy indicating which restrictive behavior management practices the facility uses.

(i) Facilities that utilize physical restraint with children shall:

1. Ensure that physical restraint is used only to protect a child from self-harm, or to protect other children or staff members, or to prevent the destruction of property when the child fails to respond to non-restrictive behavior management interventions;

2. Ensure that staff members use only physical restraint techniques and holds, such as the basket hold or restraining the child in the prone position. These techniques and holds shall only be used when the child:

i. Has received a medical examination that documents that the child is in good health; and

ii. Does not have a documented respiratory ailment such as asthma, a spinal condition, fracture, seizure disorder or other physical condition that would preclude the child from being restrained, unless the physician authorizes such techniques;

3. Ensure that a child is released from restraint as soon as he or she has gained control;

4. Document each physical restraint incident in an incident report that reflects the following:

i. The name of the child;

ii. Date and time of day the restraint occurred;

iii. Name of all staff members involved in the restraint;

iv. Precipitating factors that led to the restraint;

v. Other non-restraint interventions attempted;

vi. Time the restraint ended;

vii. Condition of the child upon release; and

viii. Medical review by the nurse or physician if injury to the child is suspected;

5. Ensure that all restraint incidents are:

i. Reviewed by a supervisory staff member within one working day after the incident; and

ii. Discussed with the staff member involved in the restraint when the restraint is deemed improper within one working day after the incident;

6. Ensure that staff members who are involved in the restraint of a child receive training in safe techniques for physical restraint; and

7. Prohibit staff members from utilizing the following practices during a physical restraint:

i. Pulling a child's hair;

ii. Pinching a child's skin;

iii. Twisting a child's arm or leg in such a manner that would cause the child pain;

iv. Kneeling or sitting on the chest or back of a child;

v. Placing a choke hold on a child;

vi. Bending back a child's fingers;

vii. Intentionally shoving a child into walls and objects; and

viii. Allowing other children to assist in the restraint.

(j) Facilities that utilize exclusion shall:

1. Inform staff members through written policy of the circumstances when exclusion may be utilized as a behavior management intervention, such as:

i. Disruptive behavior, including fighting, name calling and pushing;

ii. Increased agitation on the part of the child;

iii. Non-compliant behavior or failure to participate in the program; and

iv. Uncontrollable emotional outbursts such as crying, screaming and inappropriate laughter;

2. Ensure that the child being excluded is not engaging in suicidal behavior;

3. Prohibit more than one child from being excluded in a room or area at a time;

4. Ensure that at least one staff member is responsible to make visual contact with the child every 15 minutes and is within hearing distance of the child when the child is removed from the group;

5. Ensure that the facility does not utilize a closet, bathroom, unfinished basement, unfinished attic, locked room or other unapproved area when excluding a child from the group;

6. Ensure that the exclusion of a child from the other children does not exceed 30 consecutive minutes, unless there is direct verbal contact by a staff member to assess if the child is ready to return to the other children prior to the end of the 30 minutes and a child is not excluded from the group for more than a total of two hours in a 24-hour period;

7. Document each exclusion of a child in an incident report that reflects the following:

i. The name of the child;

ii. Date and time of day the exclusion occurred;

iii. Name of all staff members observing the child;

iv. Precipitating factors that led to the exclusion;

v. Other interventions attempted;

vi. Time the exclusion ended; and

vii. Condition of the child upon release; and

8. Ensure that the child is reintroduced to the group in a sensitive and non-punitive manner as soon as he or she has gained control.

(k) A facility shall not utilize any type of mechanical restraint on or after January 1, 2020.

(l) Facilities that choose to utilize mechanical restraint until December 31, 2019, in addition to taking the precautions listed for physical restraint in (i)1 through 7 above, shall:

1. Ensure that only leather restraints and soft handcuffs are utilized;

2. Discuss with the facility's staff physician or consulting physician the appropriateness of utilizing mechanical restraints with the child and secure the physician's initial approval before utilizing such restraint for the child;

3. Document in the child's treatment plan or record that other less restrictive practices have been considered and attempted before mechanical restraint was applied;

4. Ensure that staff utilizing mechanical restraints have received training in the administration of these restraints;

5. Instruct staff in the policies/procedures regarding the mechanical restraint, including the obligation to secure approval for each implementation of a mechanical restraint from the administrator and/or staff physician or consulting physician prior to implementing a mechanical restraint. Such approval shall be:

i. Documented in writing through signature by the administrator and/or staff physician or consulting physician; and

ii. Filed in the child's case record;

6. Ensure that the child is protected and handled in a manner which avoids injury when applying mechanical restraint;

7. Ensure that no more than one child is mechanically restrained in the same room or area at the same time;

8. Ensure that a staff member(s) remains at arm's length of the child and maintains visual contact at all times during the restraint or maintains visual contact utilizing an Office of Licensing-approved television monitoring system;

9. Ensure that staff check the child's arms and legs every 15 minutes to prevent circulation problems;

10. Ensure that the child has access to toilet facilities;

11. Ensure that the child has access to all scheduled meals during the period restraints are being used;

12. Limit the use of mechanical restraint to no more than two consecutive hours and no more than four hours in a 24-hour period unless approval from a physician is obtained. The facility may request approval from the physician to exceed the time frame limitations for mechanical restraint when it appears that a child needs additional time to gain control of his or her behavior. A written copy of the physician's order to extend the time a child is placed in mechanical restraints shall be filed in the child's case record;

13. Have the child checked by a nurse or physician immediately afterward to ensure that the child has not suffered an injury. If a nurse or physician is not on grounds, the administrator on duty or staff member in charge shall immediately:

i. Contact the facility's on-call medical staff or the consulting physician; or

ii. Arrange a medical examination at the local hospital or clinic;

14. Explore other treatment options for a child whenever mechanical restraint proves ineffective or accelerates destructive/self-injurious behavior, including, but not limited to:

i. One-to-one staff supervision;

ii. Psychotropic medication, provided it is approved and prescribed by a physician; and/or

iii. Psychiatric hospitalization; and

15. Prohibit the use of the following types of mechanical restraints:

i. Straight jackets;

ii. Leg irons;

iii. Papoose boards;

iv. Ropes;

v. Metal handcuffs;

vi. Body wraps;

vii. Body tubes;

viii. Teflon handcuffs;

ix. Blanketing; and

x.

xi. or five-point restraint.

(m) A facility that is accredited by the Joint Commission on Accreditation of Health Care Organizations (JCAHO) as a psychiatric hospital or facility and has a current contract with the Department may use four- or five-point restraints with a child. When the facility uses four- or five-point restraints, the facility shall comply with all the requirements for physical and mechanical restraint, with the exception of (l)15x above.

(n) A facility utilizing a behavior management room shall:

1. Ensure that the room:

i. Is unlocked at all times during its use;

ii. Is used for only one child at a time;

iii. Has floor space that provides a minimum of 70 square feet;

iv. Has a ceiling height of at least seven feet and six inches;

v. Has durable padded covering secured on the walls at least up to the six-foot level. The covering shall be made of a material that is fire retardant;

vi. Provides a minimum of 10 foot-candles of light in all areas of the room. All lighting fixtures shall have a protective covering to prevent tampering by a child;

vii. Has a door that is padded and equipped with a safety glass window to provide visibility of the room; and

viii. Has adequate ventilation that complies with local and state regulations;

2. Establish a written policy regarding the use of the behavior management room for children. This written policy shall specify:

i. Criteria for the use of this room, including those types of behavior that could result in the child's isolation;

ii. Those staff members who are authorized to place a child in the room;

iii. Procedures for ensuring the child's safety while confined in the room;

iv. Procedures for helping the child re-enter the group; and

v. Time frames governing a child's isolation in the room;

3. Ensure that no child remains in such a room for more than two consecutive hours or for more than four hours in a 24-hour period unless approval from a physician is obtained. The facility may request approval from the physician to exceed the time frame limitations for the use of the behavior management room when it appears that a child needs additional time to gain control of his or her behavior. A written copy of the physician's order to extend the time a child remains in the behavior management room shall be filed in the child's case record;

4. Ensure that objects such as belts, matches, pens or other potentially harmful objects are removed from the child prior to the child's placement in the behavior management room;

5. Ensure that there is no minimum length of time for placement when children are isolated in such a room;

6. Ensure that a staff member:

i. Maintains constant visual contact with any child considered to be at high risk if left unattended in such a room; and

ii. Visually observes a child not considered a high risk in such a room at least every 15 minutes to ensure the safety of the child;

7. Ensure that the child has access to toilet facilities;

8. Prohibit the use of a behavior management room for non-violent or non-assaultive offenses or behaviors or for practices to:

i. Prevent runaways;

ii. Seclude a child who is ill;

iii. Punish a child for stealing, cursing, or failing to cooperate with house rules;

iv. Facilitate supervision for the convenience of staff; and/or

v. Permit a child to eat his or her meals in such a room;

9. Maintain a log book detailing each use of the behavior management room. This log book shall contain the following:

i. The name of the child;

ii. The date and time of day that the child was placed in such a room;

iii. The signature of the supervising staff member authorizing placement;

iv. A description of the behavior precipitating the decision to place the child in such a room;

v. The time(s) the observing staff member checked on the child in such a room, including a description of the child's behavior and signature of the staff member responsible for observing the child;

vi. The time that the child was removed from such a room;

vii. The child's condition and appearance at the time of removal; and

viii. The child's behavior upon return to the group; and

10. Maintain a copy of the log book entry as identified in (m)9 above in the child's record.

§ 3A:55-6.14 Discipline and control

(a) The facility shall develop house rules to help the children develop self-control and conform to acceptable patterns of social behavior.

1. The facility shall put the house rules in writing.

2. The house rules shall include a rationale for such rules and delineate the consequences for infractions.

3. The facility shall explain its disciplinary practices individually with each child at the time the child is placed in the facility.

4. The rules shall be maintained on file in the facility and made available to parents.

5. The house rules may be incorporated in the child's bill of rights, as specified in N.J.A.C. 3A:55-3.2.

(b) The facility shall assign responsibility for the discipline, control, and supervision of children to staff members and shall not delegate that responsibility to other children.

(c) The facility shall not threaten discipline or administer discipline to a child for the misbehavior of another child or group of children.

(d) The facility shall prohibit the following types of punishment from being used on a child:

1. Any type or threat of physical hitting or the use of corporal punishment;

2. Forced physical exercise or forcing a child to take an uncomfortable position;

3. Subjection to verbal abuse, ridicule, repetitious writing, humiliation, or other forms of degradation;

4. Deprivation of meals, snacks, sleep, mail, clothing appropriate to the season or time of day, or verbal communication;

5. Mechanical or chemical restraint;

6. Assignment of overly strenuous physical work;

7. Exclusion from any essential program or treatment service, such as education or clinical treatment;

8. Refusal of entry to the residence;

9. Temporary suspension and return of a child from the facility to a parent, relative, foster home, or shelter, unless approved by the Division or other placing agency; and

10. Seclusion in a locked room.

§ 3A:55-6.15 Search and seizure of weapons and contraband

(a) Facilities may conduct searches for weapons or contraband, provided that they maintain on file in the facility written policies and procedures that are consistent with the requirements of this chapter.

1. The facility shall define contraband to include illegal drugs, unauthorized property, stolen property or items otherwise obtained illegally.

2. The facility shall post the policy in an area conspicuous to children, explain the policy and distribute copies of the written policy to children and their parents upon admission and when changes are made to the policy.

3. The facility shall specify the actions that it will take when weapons or contraband are found.

(b) The facility shall prohibit all staff members, consultants and volunteers from strip searching a child for any reason.

(c) The facility shall permit frisk searches (surface searches of the outer clothing) of a child only when there is reasonable suspicion that the child is in possession of a weapon.

1. The facility shall prohibit staff members from reaching into a child's pockets unless the frisk search confirms the reasonable belief that the child is in possession of a weapon.

2. The facility shall not frisk search a child who is suspected of possessing contraband other than a weapon, but may frisk search a child who is suspected of possessing illegal drugs when:

i. The facility has met the requirements, as specified in (d) below;

ii. The child refuses to empty his or her pockets or belongings; and

iii. The police refuse to respond to the facility's request to conduct a lawful search.

3. The facility shall not frisk search a child who is suspected of possessing contraband other than a weapon or illegal drugs.

4. The facility shall ensure that a frisk search is conducted:

i. In the presence of two staff members, one of whom has supervisory or administrative responsibilities in the facility; and

ii. Only by staff members of the same sex as the child. If same sex staff members are not available, staff members shall provide one-to-one supervision of the child, until the search can be properly conducted.

5. The facility may choose to use an electronic "wand" or other similar noncontact device on a child who is suspected of possessing a weapon.

i. The facility shall obtain written approval from the Office of Licensing for the use of an electronic "wand" or other noncontact device prior to its use with children;

ii. The facility shall maintain on file a written policy that outlines the use of an electronic "wand" or other similar noncontact device;

iii. The facility shall inform children and parent(s) that an electronic "wand" or other similar noncontact device may be used to search for a weapon; and

iv. All staff members who use an electronic "wand" or other similar noncontact device shall be instructed in its use.

(d) When the facility has reasonable suspicion that a child is carrying illegal drugs or other contraband in a garment, pocket, purse, or other possession within the child's immediate control, the facility shall ensure that the staff member:

1. Asks the child to empty voluntarily any garment, pocket, purse or other possession;

2. Inspects all such items that are in plain view; and

3. If necessary, summons a law enforcement officer to conduct a lawful search of the possessions within the child's immediate control whenever the child refuses a voluntary search by the facility staff member.

(e) If a facility has reasonable suspicion that a child's room or other possessions not within a child's immediate possession or control contain contraband, stolen property or weapons, the facility may conduct an unannounced search if:

1. The facility has explained and documented this practice to the child and his or her parents, as specified in N.J.A.C. 3A:55-3.2 and 3.6;

2. The search is conducted in the presence of two staff members, one of whom has supervisory or administrative responsibility; and

3. The facility allows the child an opportunity to be present during a search. If the child declines the opportunity, the staff members may conduct the search in the child's absence.

(f) When unannounced room searches occur, as specified in (e) above, the facility shall verify which child is responsible for any weapon or contraband brought into the facility before imposing a disciplinary action or sanction on the child.

(g) Before a facility conducts a blood or urine screening on a child to determine substance abuse, the facility shall ensure that:

1. Substance abuse screenings are conducted only under the following limited circumstances:

i. When screening is ordered by the court;

ii. When the facility is specifically designated as a drug treatment facility; or

iii. When ordered by a physician who has determined that such screening is necessary through review of the child's previous case history and current behavior; and

iv. Substance abuse screenings are conducted only if:

a) The facility has informed the child and parents, if available, beforehand about the screening;

b) The facility uses a licensed laboratory, clinic or an FDA-approved home drug screening/testing kit to conduct the screening, including drawing the sample and completing the analysis;

c) The facility ensures that the child has privacy when a urine sample is collected, unless the facility documents that the child has a history of falsifying samples. If the child has such a history, the facility shall request appropriate medical staff or a staff member from the facility of the same sex as the child to witness or verify that the child is not falsifying samples; and

d) The facility verifies the accuracy of all positive tests through a second screening; and

2. Substance abuse screenings are discontinued whenever previous screenings result in three consecutive negative readings after the initial positive reading was documented, unless a court order requires continued screenings.

(h) The facility shall maintain on file an incident report for every instance involving a frisk search, the use of an electronic "wand" or other similar noncontact device, a staff member's request for a child to empty a possession within the child's immediate control, a room search resulting in the discovery of weapons, illegal drugs or other contraband, and blood or urine screening.

§ 3A:55-6.16 Firearms and weapons

(a) The facility shall not maintain any firearm, chemical or other weapon within or on the grounds of the facility.

(b) The facility shall prohibit any staff member or child to possess any firearm, chemical or other weapon within or on the grounds of the facility.

§ 3A:55-6.17 Aversive conditioning procedures

A facility that utilizes aversive conditioning procedures with developmentally disabled children shall first obtain written approval from the Office of Licensing prior to their implementation with children.

§ 3A:55-7.1 Comprehensive health plan for children

(a) The facility shall prepare and implement a comprehensive health plan to ensure that each child's medical, dental, mental health, and other health needs are met adequately and promptly.

1. The facility shall identify a physician or health care organization who will assume responsibility for routine medical care of each child.

2. The facility shall arrange for emergency, routine and follow-up medical care for each child.

§ 3A:55-7.2 Health care and medical treatment for children

(a) The facility shall identify a physician or health care organization to assume responsibility for the routine, emergency, and follow-up medical care of each child.

(b) Within 72 hours after admission, the facility shall ensure that each child receives a medical examination, as defined in (e) below, unless the child had received a medical examination within 30 calendar days prior to his or her placement. Vision and hearing screenings are acceptable for one year.

(c) When the facility suspects that a child is ill or carrying a contagious disease, the child shall be examined by a physician prior to admission.

(d) When the facility suspects that a child has been abused or neglected, the facility shall ensure that the child is examined by a physician immediately upon admission.

(e) The facility shall ensure that each child receives an annual comprehensive physical examination and shall maintain a copy of the results of this physical examination in the child's record.

1. The physical examination shall include, but not be limited to:

i. A measurement of height and weight;

ii. A determination of blood pressure;

iii. An objective vision screening which uses a Titmus or Snellen test, or equivalent;

iv. A hearing screening using an audiometer and, if indicated, tympanometry;

v. A hematocrit or Hemoglobin test, if indicated; and

vi. A urinalysis, if indicated.

2. The facility may use vision and hearing screening tests completed at the child's school if these tests meet the requirements specified in (d)1iii and iv above.

3. The facility shall ensure that eye glasses, orthopedic apparatus or other equipment are available to each child who requires them.

4. The facility shall ensure that all children 13 years of age and under receive a Mantoux tuberculin skin test unless they have had tuberculosis, and ensure follow-up with the physician if test results are positive.

5. The facility shall ensure that all children are appropriately immunized.

(f) The facility shall ensure that each child receives a dental examination within three months following admission and at least semi-annually thereafter.

(g) The facility shall ensure that children between two and six years of age receive developmental evaluations by a physician, nurse, or other appropriate health official.

§ 3A:55-7.3 General medical practices

(a) The facility shall ensure that any medical, dental, psychological or psychiatric treatment or medication administered to a child is explained to the child.

(b) When a serious accident or illness occurs to a child, the facility shall take the necessary emergency action and notify the child's parents and the placing agency immediately. The facility shall document these incidents in the child's record.

(c) When a child or staff member has a communicable disease, as specified in the table in (c)3 below, the facility shall:

1. Obtain a written statement from a licensed physician treating the child or staff member, confirming the diagnosis and indicating that there is no risk to the child or staff member, or to others before the child or staff member participates in group activities;

2. Isolate the child or staff member posing a risk to others; and

3. Contact the New Jersey State Department of Health, the local health department or other appropriate public health authority when the child or staff member has a reportable disease, as specified in the table below:

TABLE OF COMMUNICABLE DISEASES

Respiratory illnesses	Gastro-intestinal illnesses	Contact illnesses
Chicken pox	Giardia lamblia *	Impetigo
German measles *	Hepatitis A *	Lice
Hemophilus influenzae *	Salmonella *	Scabies
Measles *	Shigella *	
Meningococcus *		
Mumps *		
Strep throat		
Tuberculosis *		
Whooping cough *		

---

* Reportable diseases, as specified in N.J.A.C. 3A:55-7.3(c)3.

§ 3A:55-7.4 Medication other than psychotropic medication

(a) The facility shall administer prescription medication to a child only when the medication is authorized by a physician.

(b) The facility shall limit the dispensing of non-prescription over-the-counter medication to the following types, which shall be dispensed in accordance with the recommended dosage, age or weight of the child, as indicated on the label:

1. Antihistamines or decongestants;

2. Acetaminophens (or other age-approved aspirin substitutes);

3. Cough suppressants; and

4. Topical ointments.

(c) The facility may permit the dispensing of non-prescription medication other than those listed in (b) above if the child's physician authorizes it in writing.

(d) The facility shall maintain a medication log book that contains the following information:

1. The name of the child receiving medication, whether prescription or non-prescription;

2. The type of medication, dosage, and intervals between dosages;

3. What to do if a dosage is missed;

4. The reason for the medication;

5. The date and time the medication was administered;

6. Possible side effects of the medication, if any; and

7. The signature and title of the staff member dispensing the medication.

(e) The facility shall encourage the self-administration of medication by properly trained and supervised children whenever their intellectual, emotional and physical capabilities make such practice appropriate and feasible. This shall be documented in each child's treatment plan.

(f) The facility shall ensure that the following procedures for storage of medication are followed:

1. The facility shall keep all prescription and non-prescription medication in a locked cabinet or container, or, as needed, in a locked box in a refrigerator. The facility shall ensure that the keys to the locked cabinets, containers and locked boxes are adequately safeguarded and maintained by staff members and are kept out of reach of children;

2. All outdated stocks and prescriptions no longer in use shall be disposed of safely as follows:

i. Liquid medication shall be poured down the drain, the bottles rinsed out and then disposed of in the trash; and

ii. Pills, tablets, and capsules shall be disposed of pursuant to law;

3. The telephone number of the regional poison control center shall be posted at all medication-dispensing stations and by each telephone; and

4. Staff members shall have access to medical supplies at all times.

(g) In situations where the facility determines that an adolescent is capable of self-administration of prescription birth control-related supplies, the facility may allow the adolescent to maintain such supplies amongst her personal possessions, so long as the facility:

1. Provides a locked cabinet or box for storage; and

2. Documents in the treatment plan the rationale and arrangements for the adolescent to maintain prescription birth control-related supplies.

§ 3A:55-7.5 Psychotropic medication

(a) The facility shall not administer medication to children as a punishment, for the convenience of staff members or as a substitute for a treatment program.

(b) The facility shall ensure that a pre-treatment clinical assessment, based on behaviors exhibited by the child and observed by staff members, is conducted by a licensed physician before psychotropic medication is prescribed. This pre-treatment clinical assessment shall include at least the following information:

1. A comprehensive drug history, including consideration of the use of all prescription and non-prescription drugs by the child as well as a history of cardiac, liver, renal, central nervous system or other diseases, a history of drug allergies and dietary information;

2. A laboratory work-up, including, but not limited to:

i. A complete blood count. If the medication prescribed requires routine follow-up blood work, this blood count test shall be administered prior to the child's beginning his or her medication regimen. If the medication prescribed does not require routine follow-up blood work, a new blood count test is not required as long as the child has had a blood count test within one year of admission, unless the physician determines otherwise;

ii. Urinalysis;

iii. Blood screening to include an assessment of liver and renal functions, if indicated; and

iv. Cardiogram (EKG) and electroencephalogram (EEG), as indicated, on children with previous histories of cardiac abnormalities or central nervous system disorders; and

v. A written description of:

a) Non-pharmacological interventions that were considered or attempted to address the child's behavior;

b) The purpose of the medication, the specific behavior(s) of the child to be modified and ways in which progress towards the treatment objectives will be measured;

c) The dosage; and

d) How possible side effects will be monitored and reported to the physician who prescribed the medication.

(c) Within two weeks after admission, the facility shall ensure that all children already receiving psychotropic medication receive a clinical assessment by a physician as specified in (b) above. The facility may extend this two-week time period up to 30 days in which a child receives a clinical assessment, provided that:

1. The facility has the necessary amount(s) of medication to administer to the child during any extended time period;

2. The facility has consulted with the physician who previously prescribed the medication; and

3. The facility documents the consultation in (c)2 above in the child's record.

(d) The facility shall not be obligated to comply with (b) above and (e) below, for a pre-treatment clinical assessment and informed consent for psychotropic medication, other than long-acting drugs, if the treating physician certifies in the child's clinical record that the child presents a danger to self and/or others.

1. The initial decision to administer emergency medication shall be based on a personal examination of the child by a physician.

2. The initial administration of emergency medication may extend for a maximum period of 72 hours.

3. A physician may authorize the administration of medication for an additional 72 hours upon determination that the continuance of medication on an emergency basis is clinically necessary. This authorization may be given by telephone, provided that it is countersigned by the physician and certified as to the necessity in the child's clinical record within 24 hours. If this medication is then deemed necessary for the child's treatment while in the facility, the physician shall complete the pre-treatment clinical assessment as specified in (b) above.

4. The facility's staff members shall document on a separate reporting form that the psychotropic medication was administered in an emergency situation. The documentation shall identify possible side effects to be monitored as described in (b) above.

(e) Before administering psychotropic medication, the facility shall obtain written informed consent from the child's parent(s) or legal guardian, and from all children 14 years of age and older consistent with their age and level of functioning unless the facility documents that the child lacks the capacity for informed consent. In cases where both a parent and legal guardian exist, the facility shall seek written informed consent from the legal guardian.

1. A physician, registered nurse or staff member trained in administering psychotropic medication shall obtain written informed consent.

2. The person requesting written informed consent shall ensure that parents, guardians and children are informed about:

i. The behavior or symptoms which the medication is intended to modify;

ii. The dosage;

iii. Any change in type of medication; and

iv. How possible side effects of the medication will be treated.

3. When a request for written informed consent is made by a staff member, the staff member shall inform the parent that a physician is available for consultation regarding the proposed medication.

4. The facility may obtain verbal informed consent by telephone from the child's parents when the facility, physician, registered nurse or staff member is unable to obtain written informed consent, provided that:

i. The facility documents the telephone call in the child's record; and

ii. The facility obtains the written informed consent from the child's parents or legal guardian within 24 hours of receiving the verbal informed consent.

5. If the facility cannot obtain written informed consent or verbal informed consent, the facility shall use certified mail, return receipt requested, and shall send the request to the parent's or legal guardian's last known address at least 10 calendar days before the proposed date for the commencement of treatment. The written notice shall specify:

i. The proposed date for beginning of treatment; and

ii. That a failure to respond by the proposed date for the beginning of treatment shall empower the director, after consultation with the placing agency, to grant consent for the medication.

6. The facility shall document all methods for requesting written consent in the child's record.

(f) When a parent, legal guardian or child refuses or revokes consent for medication, the following procedures shall apply:

1. The treating physician or his or her designee shall speak to the child or the parent or both to respond to the concerns about the medication. This person shall explain the child's condition, the reasons for prescribing the medication, the benefits and risks of taking the medication, and the advantages and disadvantages of alternative courses of action;

2. If the child or parent continues to refuse or revoke consent to medication and the physician or his or her designee still believes that medication is a necessary part of the child's treatment plan:

i. The director of the facility shall advise the child and the parent that the matter will be discussed at a meeting with the child's treatment team and shall invite the child and parent to attend such meeting;

ii. The director of the facility may suggest that the child and parent discuss the matter with a person of their own choosing, such as a relative, attorney, physician, or mental health clinician;

iii. The treatment team shall meet to discuss the treating physician's recommendations and the response of the child or parent; and

iv. The treatment team shall attempt to formulate a viable treatment plan that is acceptable to the child and parent;

3. If, after the treatment team meeting, the child or parent continues to refuse or revoke consent to medication and the treating physician still believes that medication is a necessary part of the child's treatment plan, the facility shall obtain an independent psychiatric review. The psychiatrist conducting this independent assessment shall review the child's clinical record, conduct a personal examination of the child, provide a written report for the child's treatment team, and, if the parent or child is refusing or has revoked consent to medication, speak with the parent or child, respectively; and

4. If the child or parent continues to refuse or revoke consent to medication, and the facility feels that the child cannot be adequately treated without the medication, the facility may initiate an emergency discharge, as specified in N.J.A.C. 3A:55-6.2(b) and 10.5.

(g) The facility shall administer psychotropic drugs in the following manner:

1. Psychotropic medication shall be dispensed only by licensed pharmacists and prescriptions shall always be labeled to reflect the following information:

i. The name and address of the dispensing pharmacy;

ii. The full name of the pharmacist;

iii. The full name of the child;

iv. Instructions for use, including the dosage and frequency;

v. The prescription file number;

vi. The dispensing date;

vii. The prescribing physician's full name;

viii. The name and strength of the medication;

ix. The quantity dispensed; and

x. Any cautionary information appropriate to the particular medication;

2. The facility shall encourage the self-administration of medication by properly trained and supervised children whenever their intellectual, emotional, and physical capabilities make such practice appropriate and feasible. The child's capability for self-administration of psychotropic medication shall be documented in the child's treatment plan; and

3. The facility shall ensure that psychotropic medication is stored as specified in N.J.A.C. 3A:55-7.4(f).

(h) The facility shall ensure that all children receiving psychotropic medication are monitored in the following manner:

1. Staff members directly involved with the child shall record daily progress towards treatment goals and objectives and observed side effects which are identified in the pre-treatment clinical assessment;

2. Staff members shall notify the prescribing physician immediately, when side effects are observed;

3. The facility shall ensure that:

i. The physician or his or her designee reviews the child's behavior, well-being and status towards treatment goals and objectives, side effects and reason for continuing the medication every 30 days;

ii. The review is documented in the child's medical record; and

iii. The facility informs the child, parents, legal guardian, the placing agency in writing about the outcome of a negative review.

(i) The facility shall ensure that each staff member involved in administering psychotropic medication receives the following training:

1. Indications for drug use; and

2. Therapeutic effects and side effects.

(j) The facility shall record all information about a child's psychotropic medication, as specified in N.J.A.C. 3A:55-7.4(d), and the facility shall ensure that the child's medication record is available to the physician for review when additional medication is prescribed.

§ 3A:55-7.6 Health education and physical care for children

(a) The facility shall ensure that children receive training in personal care, hygiene and grooming habits.

1. The facility shall discuss the physiological changes experienced during adolescence with children in the facility.

2. The facility shall instruct children about sexually responsible behavior including how to protect themselves from pregnancy and sexually transmitted diseases including AIDS.

3. The facility shall instruct all children about the health and social consequences of smoking tobacco products, smokeless tobacco, alcohol and drug abuse.

(b) The facility shall ensure that children are provided with the following:

1. Individual towels and washcloths;

2. Soap and toilet paper; and

3. Hygiene supplies that are age appropriate for their needs, such as toothpaste, mouthwash, deodorant, shampoo, razors, shaving cream and feminine hygiene articles.

(c) For children unable to provide for their own personal care and hygiene, the facility shall bathe and groom them, and provide other personal hygiene services that are necessary to meet their needs.

(d) The facility may permit residents to maintain over-the-counter cosmetics, acne preparations and personal hygiene supplies among their personal possessions.

(e) The facility shall take measures to ensure that each child has an adequate personal supply of clean, well-fitting and attractive clothing and footwear appropriate to his or her age, gender, individual needs, community standards, and season.

1. The facility shall ensure that each child's clothing is kept clean and in good repair. The facility may require children 12 years of age and older to do their own laundry.

2. The facility shall not require children to wear any article of clothing that would explicitly identify them as a resident of the facility.

§ 3A:55-7.7 Health requirements for staff

(a) Before working for a facility each staff member who comes in contact with the children for the equivalent of eight hours a week or more shall submit a written statement from a licensed physician indicating that he or she is in good health and poses no health risk to persons at the facility. Such statement shall be based on a medical examination conducted within the six months immediately preceding such person's association with the facility.

(b) Prior to or upon beginning work or having contact with the children for the equivalent of at least eight hours a week at the facility, each staff member shall take a Mantoux tuberculin skin test with five TU (tuberculin units) of PPD tuberculin. If the staff member has had a previous positive Mantoux tuberculin skin test the staff member shall have a chest x-ray taken in lieu of the Mantoux tuberculin skin test. The staff member shall submit to the facility written documentation of the results of the test or x-ray.

1. If the Mantoux tuberculin skin test result is insignificant (zero to nine millimeters (mm) of induration), no further testing shall be required. The Office of Licensing or facility may, at any time, require a staff member to retake the Mantoux tuberculin skin test, if there is a reason to believe or suspect that the staff member may have contracted tuberculosis or if the State Department of Health recommends retesting.

2. If the Mantoux tuberculin skin test result is significant (10 or more mm of induration), the individual shall have a chest x-ray taken. If the chest x-ray shows positive results, the facility shall require that the staff member obtain a written statement from a physician certifying that he or she poses no threat of tuberculosis contagion before allowing the staff member to come in contact with the children. The facility shall ensure that the staff member adheres to the recommended follow-up testing, if any, by the physician.

3. The facility shall prohibit any staff member who fails to submit satisfactory results from having contact with the children at the facility.

(c) The facility shall maintain on file the results of each staff member's:

1. Mantoux tuberculin skin test or chest x-ray when indicated; and

2. Physical examination.

(d) The facility shall exclude a staff member who appears to be physically, emotionally or mentally impaired or who appears to have a drug-induced or alcohol-induced condition that would endanger the health, safety and well-being of the children or other staff members. The facility shall document the action taken to exclude the staff member and maintain such documentation in the staff member's personnel record. The facility shall not permit the staff member to reassume duties until the condition is no longer present as specified in N.J.A.C. 3A:55-5.1(a).

§ 3A:55-7.8 Environmental sanitation and staff hygiene

(a) Staff members shall use disposable rubber gloves, which shall be discarded after each use, when coming into contact with blood, vomit, urine, fecal matter or other body secretions.

(b) The facility shall ensure that areas in the facility, bedding, furniture, carpeting and clothing, that come into contact with blood, vomit, urine, fecal matter or other body secretions are disinfected with a commercially prepared disinfectant that indicates it kills bacteria, viruses and parasites. This solution shall be used in accordance with label instructions.

(c) The following equipment items or surfaces shall be washed and disinfected after an incident, as specified in (b) above:

1. Toilet seats;
2. Sinks and faucets;
3. Mops that were used in the clean-up;
4. Washcloths, towels and sponges that were used in the clean-up; and
5. Thermometers.

§ 3A:55-8.1 General requirements

(a) The provisions of this subchapter shall apply to each facility that provides or arranges transportation for children:

1. To or from the facility or between other prearranged sites and the facility; or

2. In connection with an activity (such as a field trip) conducted by or under the auspices of the facility.

(b) Each facility as specified in (a) above shall also comply with applicable provisions of the New Jersey Motor Vehicle Commission's laws and rules, at N.J.S.A. 39:1-1 et seq. and Title 13 of the New Jersey Administrative Code.

(c) The facility may authorize staff members to utilize their own private passenger vehicles to transport children from the facility to and from scheduled field trips or to transport children from the facility to a hospital, clinic, or office for medical treatment. However, staff members may be authorized to do so only if:

1. The vehicle has a capacity of eight or fewer persons;

2. The driver possesses a valid automobile driver's license issued by the New Jersey Motor Vehicle Commission, hereinafter referred to as the MVC, or a valid automobile driver's license issued by an approved out-of-State motor vehicle agency for the state in which the driver is a legal resident;

3. The vehicle has a valid motor vehicle inspection sticker issued by the MVC or by an approved out-of-State motor vehicle agency for the state in which the vehicle is legally registered;

4. The vehicle owner possesses liability insurance at least at the minimum amounts required by the New Jersey State insurance law, pursuant to N.J.S.A. 17:28-1.1a or at least the minimum amounts required by a state other than New Jersey in which the car is legally registered;

5. The facility maintains transportation records on every vehicle utilized for the above, as specified in N.J.A.C. 3A:55-8.4; and

6. The facility ensures that staff members apply the safety practices specified in (d) and (e) below.

(d) The facility shall ensure that all vehicles used to transport children:

1. Are maintained in clean and safe condition;

2. Are free from tobacco smoke and the use of smokeless tobacco while children are passengers;

3. Have a maximum seating capacity that does not exceed the number of seat belts (unless the vehicle is not required by law to have seat belts);

4. Have seats and back rests securely fastened;

5. Have all seats that are facing sideways or backwards bolted down;

6. Have seats upholstered with springs or foam rubber;

7. Have an operable heater capable of maintaining a temperature of 50 degrees Fahrenheit; and

8. Are equipped with:

i. A triangular portable red reflector device;

ii. All season radial or snow tires from November 15 through April 1 (for New Jersey-based facilities only); and

iii. A removable, moisture-proof and dust-proof first-aid kit, which shall be located in the vehicle.

(e) The facility shall ensure that the following safety practices are followed:

1. A staff member is always present when an adolescent, child or infant is in the vehicle;

2. Child passenger restraint systems and booster seats are utilized as required by N.J.S.A. 39:3-76.2a;

3. Seat belts are used as required by N.J.S.A. 39:3-76.2e et seq.;

4. All adolescents, children and infants are loaded and unloaded from the curbside of the vehicle; and

5. Children are not permitted to ride in the back or beds of trucks.

(f) When transporting more than six children below six years of age, the facility shall ensure that one adult in addition to the driver remains in the vehicle.

(g) When transporting more than four infants without their adolescent mothers, the facility shall ensure that one adult in addition to the driver remains in the vehicle.

(h) The facility shall maintain transportation records, as specified in N.J.A.C. 3A:55-8.4.

(i) If the facility utilizes a Type I School Bus, Type II School Bus, or a Type II School Vehicle, the facility shall:

1. Meet all applicable rules of the MVC, New Jersey Department of Education, and New Jersey Department of Children and Families; and

2. Ensure that the drivers of the vehicles possess a valid Commercial Driver License (CDL) in at least Class B or Class C, with passenger endorsement, as required by the MVC for the gross vehicle weight rating (GVWR) of the vehicle, or an out-of-State equivalent license, as approved by the MVC.

(j) The facility shall limit travel for an adventure activity in program vehicles including cars, vans and wagon trains by:

1. Scheduling at least one full day of rest after every five days of travel;

2. Ensuring that no staff member drives for more than four hours without a 30-minute break; and

3. Prohibiting scheduled driving between 11:00 P.M. and 6:00 A.M., unless it is necessary to complete an emergency evacuation.

§ 3A:55-8.2 Additional requirements for transporting physically handicapped, non-ambulatory children

(a) Facilities providing or arranging for transportation services for physically handicapped children who are non-ambulatory shall have a vehicle that has a ramp device or hydraulic lift with a lift minimum pay load of 600 pounds. Any ramp device that is installed shall:

1. Have a non-skid surface;

2. Be securely stored and protected from the elements when not in use; and

3. Have at least three feet of length for each foot of incline.

(b) If wheelchairs are used, the facility shall ensure that:

1. All wheelchairs are securely fastened and face forward;

2. All wheelchair passengers are secured with a seat belt;

3. Arrangements for wheelchairs do not impede access to emergency and exit doors; and

4. Any aisle leading from a wheelchair position to the emergency or exit door has a minimum width of 30 inches.

§ 3A:55-8.3 Record requirements

(a) The facility shall maintain on file the following:

1. A copy of the registration of each vehicle used to transport children;

2. A copy of the insurance policy for every vehicle owned, leased, contracted or utilized by the facility; and

3. The name and address of the lessor or contractor furnishing a vehicle to the facility, if applicable.

(b) The facility shall maintain maintenance records for all vehicles used by the facility for the transportation of children, including repair and inspection records, and shall retain them for the lifetime of the vehicles.

(c) The facility shall develop and maintain on file a record of all trips other than routine school-related, work-related, or recreation trips where the facility's vehicles are used for transporting children that documents:

1. The date and time of the trip and staff member(s) who drove;

2. Names of the children who attended the trip; and

3. Any unusual incidents that occurred on the trip.

§ 3A:55-8.4 (Reserved)

§ 3A:55-9.1 General requirements

(a) The requirements of this subchapter shall apply to any facility that provides or contracts for adventure activities that may include, but are not limited to:

1. Biking;

2. Canoeing, kayaking and tubing;

3. Caving;

4. Hiking;

5. Horseback riding;

6. Ropes initiatives and rock climbing;

7. Sailing and boating;

8. Snow skiing;

9. Solos;

10. Swimming;

11. Water skiing; and

12. Camping.

(b) All facilities whose program consists primarily of adventure activities shall maintain on file a written statement of purpose that shall identify the following:

1. The facility's philosophy, goals, and objectives;

2. Characteristics of the children to be served;

3. Types of adventure activities that a child may participate in and other treatment services provided to the children, including those provided directly by the facility and those services that may be provided in cooperation with community agencies or outside individuals;

4. Procedures for implementing those services; and

5. Criteria for successful completion of the program.

(c) For facilities whose program consists primarily of adventure activities, the facility shall describe to the child and the parents prior to admission to the facility, the types of adventure activities in which the child will be asked to participate. This discussion shall include:

1. An explanation of the anticipated benefits of the activity;

2. A description of the potential risks of the activity, as well as an explanation of how the facility will take precautions to minimize risks; and

3. A statement that the facility will not force or coerce a child to participate in any adventure activity, as specified in (i) below.

(d) For facilities whose program does not consist primarily of adventure activities, the facility shall discuss with the child and his or her parents the information specified above before the child is scheduled to participate in the activity.

(e) The facility shall document in the child's record that a staff member discussed the information specified in (c) and (d) above.

(f) The facility shall maintain on file at the facility's administrative office a list of all children and staff members who participate in an adventure activity that occurs away from the grounds of the facility.

(g) The facility shall have a fully-stocked first aid kit that is activity-appropriate and available whenever an activity occurs off-grounds.

(h) The facility shall ensure that all children and staff members receive instruction about the value of the activity and necessary safety precautions, such as how to prevent dehydration, frostbite, heat exhaustion, hyperthermia, hypothermia, poisoning from plants and animals, sun poisoning, snow blindness, or drowning.

(i) The facility shall not force or coerce a child to participate in any adventure activity, but may require a child to observe an adventure activity to assist the child in overcoming his or her fears of a particular activity or to foster an interest in participating in a particular activity.

(j) The facility shall not engage in any activities requiring or involving firearms nor permit staff to have firearms.

(k) The facility shall prohibit airborne activities including bungee jumping, hang gliding and parachuting.

(l) The facility shall not permit children to use power tools and lawn mowers unless the children wear protective safety glasses and work shoes or boots, and are under the direct supervision of staff members.

(m) The facility shall not allow children or staff members to participate in manufacturer's tests of new adventure equipment.

(n) For all water and outdoor trips away from the grounds or campsites, the facility shall modify or cancel the activity if there is a threat of a severe storm or similar environmental hazard.

(o) The facility shall not allow children to engage in water activities where the water is known to have hazardous wastes, such as waters that have been contaminated by toxins, sewage, or chemicals.

(p) The facility shall ensure that all water from streams, ponds, lakes, and rivers that is used for drinking, food preparation, and dishwashing is first boiled, filtered, or purified with iodine or tablets specifically designed to purify water.

(q) The facility shall ensure that all children receive instruction in the use of personal floatation devices (life jackets) prior to their participation in water activities.

§ 3A:55-9.2 Plans for emergency evacuation and search and rescue

(a) The facility shall develop and maintain on file at the administrative office a written plan detailing procedures for emergency evacuation from any site used for adventure activities that is in a remote area or that is away from ordinary means of communication. This plan shall include, but not be limited to, the following:

1. Guidelines on how to determine dangerous weather conditions, such as storms, and life-threatening environmental hazards, such as fires, polluted waters, flash floods or avalanches;

2. Guidelines on how to determine whether a victim can walk out on his or her own power;

3. Guidelines for evacuating all children and staff members; and

4. Name, address and telephone number of local rescue squads, law enforcement agencies and hospitals, and guidelines for contacting them.

(b) The facility shall develop and maintain on file at the administrative office a written plan detailing procedures for search and rescue for each adventure activity that takes place outside the facility's grounds. This plan shall include, but not be limited to, the following:

1. Guidelines on how to conduct a search to determine that a child is missing, including a time limit for ending the search and starting a search beyond the area being used for the adventure activity;

2. Procedures for completing a full description of the missing person;

3. Procedures detailing how to deploy staff and children to scout specific areas;

4. Procedures detailing how to deploy a rescue team that shall include a staff member to seek outside help;

5. A policy that indicates when to call law enforcement agencies and telephone numbers of local law enforcement officials; and

6. Procedures for reviewing the incident with the person(s) who conducted the search.

(c) For adventure activities occurring outside the facility's grounds, the facility shall ensure that each staff member supervising an adventure activity:

1. Reviews the plan detailing the procedures for emergency evacuation;

2. Reviews the plan detailing the procedures for search and rescue; and

3. Brings a copy of these plans on each adventure activity.

(d) The director of the facility or his or her designee shall document and maintain on file at the administrative office that all emergency evacuation and search and rescue missions were reviewed within five days of the incident, and issue a statement to staff members indicating approval or recommendations for improving these practices, if applicable.

(e) For adventure activities occurring outside the facility's grounds, the facility shall ensure that at least one staff member has money or credit cards sufficient to cover reasonably anticipated emergency expenses.

§ 3A:55-9.3 Reporting requirements

(a) The facility shall report all fatalities and all accidents requiring hospitalization or medical care by a physician to the Office of Licensing as specified in N.J.A.C. 3A:55-3.7(b).

(b) The facility shall provide written notification to the Office of Licensing and the child's parents and maintain on file reports of all incidents and accidents requiring hospitalization or medical care by a physician, and incidents where an accident or fatality was avoided ("near miss"), within five working days of the incident.

1. This documentation shall specify:

i. The factors leading to the incident;

ii. The nature of the fatality, accident or "near miss";

iii. How staff members handled the incident; and

iv. Recommendations for avoiding such incidents in the future.

2. The director of the facility or his or her designee shall document in writing and maintain on file that he or she reviewed every incident and accident within five working days after the incident or accident occurred.

(c) The facility shall submit a written description to the Office of Licensing and permit an on-site inspection prior to its implementation of any of the following high risk adventure activities:

1. Caving;

2. Ropes initiatives and rock climbing; and

3. Solo camping.

(d) The written descriptions required in (c) above shall include, but not be limited to, the following information:

1. The types of equipment that will be utilized;

2. The qualifications of the staff members who will be involved in implementing the adventure activity; and

3. The policies and procedures to ensure the safety of the children and staff members during the adventure activity.

§ 3A:55-9.4 Biking

(a) Prior to implementing a planned biking trip that is off the grounds of the facility and that is more than 10 miles in duration, the facility shall:

1. Obtain the necessary permits to ride on roads or highways from host states and local governments where applicable; and

2. Maintain on file at the administrative office copies of these permits.

(b) The facility shall prohibit all biking from taking place:

1. In inclement weather;

2. On roads with heavy traffic unless there is a wide shoulder;

3. After sunset and before sunrise; and

4. Off trails and in prohibited areas.

(c) The facility may permit a child to participate in mountain biking when the following conditions have been met:

1. The child has been provided with a mountain bike that has been designed and manufactured for riding on trails;

2. The child has been provided with a helmet designed for mountain biking, knee pads, gloves, protective goggles or eye wear, and elbow pads;

3. A staff member, volunteer, or contract provider who is experienced in mountain biking accompanies the child; and

4. The child has demonstrated an ability to participate in mountain bike riding.

(d) The facility shall ensure that all persons engaged in biking:

1. Wear helmets that are approved by the American National Standards Institute (ANSI) or the Snell Memorial Fund;

2. Ride in a single file on the right side of the road;

3. Obey all traffic signs and signals;

4. Yield to traffic;

5. Are led by a staff member, and for groups of four or more children have another staff member riding at the end of the group; and

6. Take a 30-minute break every two hours, or sooner when a child expresses a need for rest or when a child is injured or ill.

(e) The facility shall ensure that the following equipment is brought on a biking trip:

1. A road map;

2. A bike repair kit; and

3. A water bottle for each child and staff member, unless the itinerary provides access to potable water.

(f) The facility shall ensure that all bikes are locked at night to deter children from running away or having the bikes stolen.

(g) Before starting a trip and every day of the trip thereafter, the facility shall ensure that all bikes have:

1. Brakes that are in good working order;

2. Tires with treads and sufficient air;

3. Handle bars that are no more than 16 inches above the seat so that the biker can sit comfortably;

4. Pedals with treads that are a distance of 3 1/2 inches or more from the front wheel or fender; and

5. Reflectors in the front, rear, pedals and spokes.

§ 3A:55-9.5 Canoeing, kayaking, and tubing

(a) The facility shall ensure that all children and those staff members who do not have a valid lifesaving or lifeguarding certificate:

1. Wear personal flotation devices (PFD) (life jackets) rated Class I, II, or III by the United States (U.S.) Coast Guard; and

2. Are instructed to never stand up in the canoe, kayak or tube, unless the children are in a confined area for staff supervised activities.

(b) The facility shall ensure that life jackets are not used for seating or bedding.

(c) The facility shall ensure that:

1. At least one staff member is present who has a valid lifesaving or lifeguarding certificate issued from an organization that is recognized by the New Jersey State Department of Health or other appropriate authority when there are eight or fewer children;

2. At least two staff members are present who have a valid lifesaving or lifeguarding certificate issued from an organization that is recognized by the New Jersey State Department of Health or other appropriate authority when there are nine or more children;

3. Children and staff members wear footwear that is secured to their feet, unless the activity occurs on a lake with a sandy bottom and no rocks; and

4. All children and staff members stay away from debris and any trees that have fallen across the river and carry the canoe, kayak or tube along the river bank past the debris or fallen tree, if necessary.

(d) The facility shall prohibit canoeing, kayaking, and tubing:

1. At night;

2. In the open ocean; and

3. During electrical storms.

(e) The facility shall ensure that the following equipment is brought along:

1. One spare life jacket for every 12 persons; and

2. Throw lines.

(f) For canoeing and kayaking, the facility shall ensure that:

1. Each canoe and kayak has flotation at either end;

2. For every three canoes or kayaks there is an extra paddle;

3. All equipment is secured;

4. Spray covers, if used, release promptly; and

5. The water temperature is 55 degrees Fahrenheit or higher unless a wet suit is provided to each child and staff member.

(g) For canoe or kayak trips in water with rapids rated Class III on the International Scale of River Difficulty (hereinafter referred to as the ISRD) developed by The American Canoe Association, the facility shall ensure that:

1. All children and staff members have completed at least three trips on water with rapids rated as Class I or II by the ISRD; and

2. All children and staff members wear helmets that are secured under the chin.

(h) The facility shall not take children on water with rapids rated Class IV or higher on the ISRD.

(i) For tubing, the facility shall prohibit trips when the water is:

1. Less than 55 degrees Fahrenheit; and/or

2. Rated above Class I on the ISRD.

§ 3A:55-9.6 Caving

(a) The facility shall ensure that:

1. No child or staff member who is known to be claustrophobic is taken on a caving trip;

2. All children and staff members wear helmets that are secured under the chin at all times;

3. At least three-quarters of the children on the caving trip are 12 years of age or older;

4. Children wear gloves if crawling is required;

5. Children have had at least two caving expeditions in horizontal caves before going into a vertical cave;

6. Children do not climb in vertical caves by hand-over-hand ropes methods;

7. Children and staff members do not run or jump in the cave;

8. All debris and human waste from children and staff members are carried out of the cave;

9. Animals and plants are left unharmed; and

10. No marking or vandalism is done within the cave by children or staff members.

(b) The facility shall ensure that at least one staff member on the trip:

1. Knows how to contact a local emergency rescue squad, such as the Cave Rescue Communications Network;

2. Is familiar with the terrain of the cave;

3. Carries a map of the cave, if available; and

4. Knows how to assist a child or staff member who becomes claustrophobic.

(c) For non-commercial caves, the facility shall obtain written permission to enter the cave from the owner or public authority and maintain this on file at the administrative office for two years from the date of the expedition.

(d) The facility shall ensure that the following equipment is brought along on all non-commercial caving expeditions:

1. A space blanket;

2. A whistle;

3. Three sources of light, one of which is either carbide, electric or a miner's headlamp;

4. Waterproof matches;

5. Potable water;

6. Climbing rope;

7. Emergency food;

8. Spare clothes; and

9. A first aid kit.

§ 3A:55-9.7 Hiking

(a) The requirements of this section shall apply to all walks or hiking expeditions in remote areas that are away from ordinary means of communication.

(b) The facility shall ensure that:

1. At least two staff members carry and know how to use a compass;

2. A first aid kit is brought along that includes treatment for snake, animal and insect bites, and treatment for contact with poisonous plants;

3. All children and staff members wear footwear appropriate for hiking;

4. No child or staff member carries a pack weighing more than 45 percent of his or her body weight; and

5. No child or staff member is allowed to destroy the environment.

(c) The facility shall ensure that each child and staff member has access to potable water.

§ 3A:55-9.8 Horseback riding

(a) The facility shall ensure that all staff members and children who go horseback riding wear long trousers and shoes or boots that have heels. In addition all children shall wear approved protective head gear that is secured under the chin.

(b) The facility shall ensure that:

1. The horse can be ridden and controlled by the rider according to his or her level of experience;

2. Two or more persons do not ride a horse at the same time;

3. The time a horse spends in ring riding is limited to a total of six hours a day, with no more than three hours of riding without at least a 15-minute break; and

4. The time a horse spends in trail riding is limited to a total of eight hours a day, with no more than four hours of riding without at least a 15-minute break.

(c) The facility shall ensure that horses it owns are:

1. Checked daily, including the mouth;

2. Checked daily for cracked feet and reshod as necessary;

3. Fed at least once a day or according to a specified feeding schedule; and

4. Given water at least once a day or according to a specified watering schedule.

(d) The facility shall retain on file at the barn housing the horses or at the administrative office documentation of compliance with the requirements specified in (c) above.

§ 3A:55-9.9 Ropes initiatives and rock climbing

(a) The facility shall ensure that staff members:

1. State the objectives of the ropes course or climbing trip to the children;

2. Emphasize the importance of safety procedures of each initiative to the children before starting the activity;

3. Allow each child to decide whether or not to participate in a ropes course;

4. Inspect the ropes before each group of children uses them; and

5. Demonstrate effective observation ("spotting") and how one is secured by a rope ("belayed").

(b) The facility shall prohibit:

1. Smoking near the ropes;

2. The wearing of jewelry, loose clothing and hair, and eyeglasses that are not secured that may be hazardous to participants or spotters;

3. Unsafe practices including, but not limited to, solo climbing, hanging upside down, throwing people or over-straining; and

4. The activity known as the "electric fence," in which a rope is attached to trees or poles and suspended four feet from the ground in a circle, and children standing inside the rope are expected to get out without touching the rope or passing under the rope.

(c) The facility shall ensure that persons on high ropes or rock climbing activities:

1. Are individually secured with an approved rope, or "belayed"; and

2. Wear helmets that are fastened under the chin.

(d) The facility shall document and maintain on file at the site of the ropes course or at the administrative office that all belay ropes are:

1. Approved by the Union of International Alpine Association (UIAA);

2. Visually inspected by staff members before use and discarded if the rope appears frayed or damaged; and

3. Incorporated into a system developed by the facility for measuring the rope's usable life. This system shall include a log for each rope as well as a standard (that is, logged for use and retired at four years from the date of purchase, or in a rock climbing element, retired after the rope has sustained the number of falls the manufacturer's label indicates the rope can sustain).

(e) The facility shall ensure that all carbiners that are used to secure belay ropes are constructed of steel or a metal of equal strength and hardness, and have a locking gate.

§ 3A:55-9.10 Sailing and boating

(a) The facility shall ensure that all sailing vessels and motor boats used by children and staff comply with all applicable Federal, state and local laws.

(b) The facility shall develop and have on file at the administrative office a plan for each boating activity specifying:

1. A description of the boat and engine, if applicable;
2. The names of all persons aboard;
3. The survival equipment on board;
4. The itinerary and weather condition check; and
5. The phone number of the closest Coast Guard station or National Park Service.

(c) The facility shall ensure that at least one staff member has completed a boating course offered by the U.S. Coast Guard Auxiliary, U.S. Power Squad, American Red Cross, or the equivalent.

(d) The facility shall ensure that the following non-commercial boats have a current decal indicating a satisfactory rating on a courtesy inspection by the U.S. Coast Guard Auxiliary:

1. For class A--boats less than 16 feet;
2. For class 1--boats 16 feet and over but less than 26 feet;
3. For class 2--boats 26 feet and over but less than 40 feet; and
4. For class 3--boats 40 feet and over.

(e) For sailboats and motor boats less than 16 feet, the facility shall ensure that there is a throw line and a personal flotation device (PFD) rated Class I, Class II or Class III by the U.S. Coast Guard on board for every passenger.

(f) The facility shall not take Division supervised children sailing and boating outside U.S. coastal waters, unless permission is obtained from the Division.

(g) The facility shall ensure that all marine heads (toilets) are certified by the U.S. Coast Guard of a type authorized for the area where the boating will occur.

(h) The survival equipment on board shall be Coast Guard approved and shall include the following:

1. A personal flotation device (PFD) for each passenger as specified in (e) above;
2. Fire extinguishers of the proper type and size for the boat being used;
3. A whistle, bell, or horn;
4. Signal flares or distress lantern;
5. Anchor and line;
6. Oars/paddles;

7. Manual pump or hand bailer;

8. Navigation lights;

9. Mooring line;

10. Life rings;

11. Flashlights;

12. Drinking water and emergency food;

13. Tool kit;

14. Navigation charts; and

15. An appropriate size first aid kit.

§ 3A:55-9.11 Snow skiing

(a) The facility shall not permit skiing in areas known to have avalanches or in temperatures below zero degrees Fahrenheit.

(b) The facility shall ensure that staff members:

1. Are familiar with the terrain; and

2. Carry a ski repair kit when skiing in remote areas.

(c) The facility shall ensure that all children and staff members use ski equipment that is appropriate for each person's height, weight and ability and that bindings are secure.

(d) The facility shall ensure that all children and staff members wear appropriate clothing, gloves and eye protection.

§ 3A:55-9.12 Solos (solitary activities)

(a) The facility shall ensure that children freely consent to do a solo, defined as a camping experience where a child is living away from direct supervision of staff members, and shall not coerce or force the children to do a solo.

(b) The facility shall:

1. Limit solos to a maximum of 72 hours;

2. Ensure that children know the boundaries of the solo activity; and

3. Advise children they are prohibited from making fires and from rock climbing.

(c) The facility shall ensure that the children receive the following equipment:

1. A whistle to signal for help;

2. Shelter such as a tent or tarpaulin;

3. Three liters of water a day;

4. Food sufficient for three meals a day;

5. A flashlight; and

6. At least one change of clothes appropriate for the weather.

(d) The facility shall ensure that staff members:

1. Communicate with the child at least twice a day by whistle, radio or other means to check on his or her safety and document all contacts in the shift log; and

2. Are available to provide face-to-face contact and care immediately if a child requests attention from staff members.

(e) The facility shall not allow children to do a solo in areas with bodies of water deeper than four feet or in areas having rivers or streams with a strong water current.

§ 3A:55-9.13 Swimming

(a) A facility using on-grounds or off-grounds swimming facilities that are not supervised public recreational bathing facilities shall ensure that at least one staff member has a valid lifesaving or lifeguarding certificate issued from an organization that is recognized by the New Jersey State Department of Health or out-of-State health department or other appropriate authority when up to eight children are present, and two staff members have a valid lifesaving or lifeguarding certificate when nine or more children are present.

1. Whenever nine or more children are swimming, the facility shall ensure that at least one lifeguard remains out of the water and is located in a position where he or she can observe all swimmers.

2. No staff member shall assume lifeguarding responsibility for more than three hours without a break.

(b) The facility shall prohibit swimming:

1. In swift and rough water;

2. At night time;

3. Under docks; and

4. When the water temperature is less than 55 degrees Fahrenheit.

(c) The facility shall test each child's swimming ability. If a child cannot swim 100 feet, tread water for three minutes and swim under water for 10 feet, the facility shall ensure that the child wears a life jacket whenever he or she is in water over four and one-half feet deep or less if the water is over the child's head, unless under direct supervision for swimming instruction. The facility shall ensure that the life jacket:

1. Indicates a Class I, Class II, or Class III personal flotation device (PFD) rating by the U.S. Coast Guard; and

2. Is never used as a cushion for sitting or kneeling at any time.

(d) The facility shall provide staff members with the following equipment:

1. Whistle; and

2. Ring buoy with rope.

§ 3A:55-9.14 Water skiing

(a) The facility shall ensure that:

1. No water skiing occurs after sunset or before sunrise;

2. No water skiing occurs in water that has debris;

3. The water skier wears a personal flotation device (PFD) rated Class II or III by the U.S. Coast Guard;

4. A staff member or responsible child other than the boat driver sits in the boat and acts as an observer of the water skier;

5. There is one staff member for every six additional children on the dock or on land; and

6. The motor boat used for water skiing meets all of the regulations as specified in N.J.A.C. 3A:55-9.10.

§ 3A:55-9.15 Camping

(a) The facility shall obtain and maintain on file at the administrative office all permits, certificates or licenses that are required by the host state and local governments when using a campsite.

(b) The facility shall ensure that all campsites it utilizes are located in areas that are well-drained and free of observable seepage.

(c) The facility shall ensure that all tents, teepees and canvas on covered wagons are:

1. Made of fire retardant material; and

2. Made of waterproof material that have seams that are coated to resist water.

(d) The facility shall ensure that cabins, tents that are designed for two or more children, teepees and covered wagons when used for sleeping provide:

1. At least 20 square feet per person (for teepees, usable space is measured from the four foot level from the ground and does not include space taken up by any inside liners);

2. At least 30 inches between beds and sleeping bags;

3. At least six feet between heads of sleepers; and

4. Cross ventilation.

(e) The facility may follow the manufacturer's tent capacity instead of the requirements identified in (d) above when children and staff utilize a tent(s) for three days or less.

(f) The facility shall prohibit smoking of tobacco products and cooking in all tents, teepees and covered wagons.

(g) The facility shall ensure that male and female children do not sleep in the same quarters.

(h) If the facility uses sleeping bags instead of beds or bed linens, the facility shall ensure that sleeping bags are:

1. Flame resistant;

2. When in use, aired at least every five days and cleaned at least once a month and more often if necessary;

3. Sufficient for the temperatures where the sleeping bags will be used, as indicated by the manufacturer's label; and

4. Placed on a mat or padding when the air temperature at night is below 35 degrees Fahrenheit.

(i) If the facility uses bunk beds, the facility shall ensure that bunk beds:

1. Have railings on top bunks that are no more than 3 1/2 inches from the top of the bed frame;

2. Have mattresses that are at least five inches from the top of the railing; and

3. Are limited to two in height.

(j) If the facility uses latrines instead of toilets, the facility shall ensure that all latrines:

1. Provide for privacy;

2. Are dug at least six feet deep; and

3. Are at least 100 feet to 200 feet from the campsite and bodies of water, based on accepted practice and local terrain.

(k) The facility using latrines shall ensure that there is one latrine for every 10 persons.

(l) Facilities using cabins, tents or teepees for over seven continuous days shall ensure that:

1. There is one shower or bathtub for every 10 children and staff members;

2. The children have access to bathing facilities every day during normal waking hours; and

3. The children have privacy when bathing.

(m) Facilities that camp overnight for seven or fewer continuous days shall ensure that children have access to bathing facilities or are provided with other means of maintaining personal hygiene. These may include, but are not limited to, wet towels, dry shampoo and using showers in schools or in other public facilities.

(n) Whenever regular plumbing facilities are not available for bathing or washing, the facility shall:

1. Ensure that all washing is done with biodegradable nondetergent soap; and

2. Prohibit all washing and bathing in lakes, rivers and streams.

§ 3A:55-9.16 Requirements for wagon trains

(a) The facility shall ensure that the canvas and wagon wheels are in good repair.

(b) If horses are used, the facility shall ensure that the requirements regarding the care of horses, as specified in N.J.A.C. 3A:55-9.8, are met.

(c) If animals other than horses are used, the facility shall:

1. Limit travel to 10 hours a day;
2. Water the animals at least every four hours;
3. Develop and maintain on file a feed plan; and
4. Check the animals daily for broken hooves and bones.

§ 3A:55-9.17 Health and sanitary practices

(a) Before a child participates in a scheduled adventure activity, the facility shall ensure that the child has had a health examination performed by a licensed physician that documents:

1. That the child can perform each type of adventure activity that he or she will be asked to do;

2. Receipt of a tetanus shot or booster shot as appropriate;

3. Notation of asthma, allergies or dietary needs; and

4. Notation of whether the child is on medication that would require the child to avoid using sun screen and/or to take other special precautions.

(b) Within 30 days of a child's forthcoming participation in an adventure activity, the facility shall document in writing and maintain on file in the child's record that the child's current health status, as determined by a physician or nurse in consultation with a physician, allows the child to engage in the specified adventure activity.

(c) The facility shall develop and give to each staff member a written policy for treating:

1. Snake, animal and insect bites; and

2. Contact with poisonous plants.

(d) The facility shall ensure that all perishable food is refrigerated at a temperature of 45 degrees Fahrenheit or lower.

(e) The facility shall ensure that all non-disposable utensils used for eating and preparing food are:

1. Not used by another person before rewashing;

2. Washed and rinsed in water that is at least 180 degrees Fahrenheit or water that has been sanitized chemically; and

3. Free of cracks.

(f) The facility shall ensure that all water in streams and lakes that is used for drinking, food preparation and dishwashing is boiled, filtered or purified with iodine or tablets specifically designed to purify water.

(g) The facility shall corral or tie the animals, other than household pets, in an area located at least 50 feet from any areas where food is prepared, cooked or served.

(h) The facility shall:

1. Use fly repellants as necessary;

2. Remove manure daily to a distance of at least 100 feet from the campsite, cooking and dining areas; and

3. Dispose of animal wastes through burial in a sanitary manner.

§ 3A:55-9.18 Qualifications for staff supervising adventure activities

(a) The facility shall comply with the applicable rules specifying criminal disclosure, Criminal History Record Information and Child Abuse Record Information background checks, academic credentials, and years of experience for the director, social service staff, and direct child care staff as specified in N.J.A.C. 3A:55-5.1, 5.2 and 5.3.

(b) For all ropes initiatives, rock climbing and water activities, except swimming at supervised public recreational bathing facilities, the facility shall ensure that:

1. The adventure activity program is certified by an organization with recognized expertise in the applicable activity; and/or

2. At least one staff member is certified to conduct the adventure activity.

(c) For land activities other than ropes initiatives and rock climbing, the facility shall ensure that at least one staff member:

1. Is certified to conduct the adventure activity; or

2. Has had at least one year of experience and demonstrated skill in the adventure activity for which he or she will be supervising children.

(d) The facility shall ensure that for each adventure activity there is at least one staff member present who is currently certified in first aid and cardiopulmonary resuscitation (CPR), as defined by a recognized health organization (such as the American Red Cross).

(e) The facility shall ensure that for each adventure activity there are at least two staff members present who are currently certified in first aid and CPR when there are nine or more children present.

§ 3A:55-9.19 Staff to child ratio requirements

(a) When children are engaged in an adventure activity, the facility shall ensure that:

1. There is at least one staff member present when there are eight or fewer children engaged in an adventure activity as specified in N.J.A.C. 3A:55-9.5(c)1 and 9.18(d).

2. There are at least two staff members present when nine or more children are engaged in an adventure activity as specified in N.J.A.C. 3A:55-9.5(c) 2 and 9.18(e); and

3. If more than 12 children are involved, there is one staff member for every additional six children.

(b) For purposes of determining whether a required staff ratio is met, only those staff members who are providing direct care and supervision of the children shall be counted. These staff may be regular staff members or adventure staff members.

§ 3A:55-9.20 Special requirements for communication and visiting

(a) The requirements in this section shall apply only to facilities providing or contracting for adventure activities that:

1. Are located in areas that are remote or away from ordinary means of communication; or

2. Use travel, including, but not limited to, backpacking, sailing or a wagon train.

(b) The facility shall permit family members and the placing agency to visit the child where he or she is currently living and shall provide a comfortable inside space when the weather prohibits outside visitation.

1. The facility shall provide privacy for all visits between the child and the placing agency.

2. The facility shall provide privacy for family visits unless the facility documents in the child's record that the child would be at risk during a private family visit.

(c) The facility shall develop and maintain on file, in the administrative office, plans and procedures to ensure that each child:

1. Can receive an emergency message from his or her family and from the placing agency within 24 hours of the family member or the placing agency contacting the facility's administrative office;

2. Is given necessary postage to send mail to family members and the placing agency; and

3. Can receive mail from his or her family and the placing agency on a weekly basis.

(d) The facility shall permit each child to make private telephone calls to the placing agency, upon reasonable request.

(e) The facility shall permit each child to make a telephone call at the facility's expense to a family member at least every other week.

1. The facility may impose a time limit of 15 minutes on telephone calls made by children to family members.

2. The facility may require children to telephone family members at off-peak times.

3. The facility shall not use electronic devices to monitor children's telephone calls to family members, but may observe their reaction during the telephone call.

4. The facility shall maintain documentation that children were permitted to make telephone calls at the facility's expense to family members. Such documentation may include, but is not limited to, copies of telephone bills or notes in logs.

(f) The facility shall not prohibit a child from receiving messages or mail or from making bi-weekly telephone calls as a consequence for misbehavior.

(g) The facility shall explain its policies and procedures to all families and children upon admission and give parents a written explanation of the policy for visiting and communication. This explanation shall include the procedures for sending emergency messages and mail.

§ 3A:55-10.1 General requirements

(a) Any facility that provides services to pregnant adolescents and adolescent parents caring for their children shall meet all requirements of this subchapter and all applicable requirements of N.J.A.C. 3A:55-1 through 9.

(b) The facility shall provide services that include the following:

1. Services regarding paternal involvement;

2. Services to the adolescent's family;

3. Parenting education;

4. Infant stimulation;

5. Health education, prenatal care, postnatal care and physical care of the adolescent mothers and infants;

6. Nutrition; and

7. Life skills development.

(c) The facility shall provide the following indoor space:

1. A private place where adolescents can store their belongings and those of their infants, which is accessible to the adolescents at all times;

2. Sufficient space to accommodate tables and chairs for all adolescents and on-duty child care staff to eat meals together;

3. Adequate space for the implementation of treatment services including individual counseling sessions, parent training sessions, family counseling sessions and case management planning meetings; and

4. The following additional floor space:

i. At least 70 square feet for the first occupant of a bedroom and 50 additional square feet for each additional occupant. The facility shall not allow more than four occupants, including adolescents and/or infants, to sleep in the same bedroom; and

ii. For each adolescent and infant, at least 30 square feet of common living space, defined as those areas that adolescents and infants can use for socializing or recreation during waking hours. The dining area shall not be included in determining compliance with this requirement, unless the dining area is accessible to adolescents and infants outside of meal time.

(d) The facility shall maintain all indoor areas in a safe and sanitary manner by ensuring that:

1. There are no poisonous plants;

2. Any corrosive agents, insecticides, bleaches, detergents, polishes, any products under pressure in an aerosol spray can, and any toxic substances are stored in locked cabinets or enclosed in areas not accessible to infants;

3. All electrical outlets accessible to infants have protective covers;

4. All fluorescent tubes and incandescent light bulbs have protective covers or shields;

5. All windows and other glass surfaces that are not made of safety glass and that are located within three feet above the floor shall have protective guards unless the facility does not provide services to ambulatory infants or toddlers;

6. Staff has access to any bedrooms that the adolescents are allowed to lock;

7. Non-permanent safety barriers (safety gates) are installed to prevent infants from falling down stairs, ramps, balconies, porches or elevated play areas;

8. Materials and furniture for indoor and outdoor use are of sturdy and safe construction, easy to clean and free of hazards that may be injurious to adolescents and infants;

9. Infants are kept away from hot stoves, irons and ironing boards, knives, glassware and other equipment that may cause injury; and

10. Poisons, insect traps, and rodent traps are kept out of the reach of infants.

(e) The facility shall maintain all outdoor areas in a safe and sanitary manner by ensuring that:

1. Non-permanent safety barriers (safety gates) are installed to block steps used by infants, unless the steps are blocked by a door;

2. Snow is removed from sidewalks and from the walkways and paths leading to the entrances and exits of the facility:

i. Within 24 hours of cessation of snowfall; or

ii. According to local ordinance; and

3. All drains and wells have protective coverings.

(f) The facility shall provide a crib for each infant under 18 months of age but may allow infants to sleep in a playpen or on a mat at least one inch thick on the floor for naps during the daytime.

(g) The facility shall provide a crib or bed for each infant 18 months of age or older.

(h) The facility shall ensure that:

1. Crib and playpen slats are no more than 2 3/8 inches apart;

2. Crib, bed and playpen mattresses are fire retardant;

3. The top rails of the crib or playpen are at least 19 inches above the mattress;

4. Any locks or latches on the dropside of a crib are safe from accidental release;

5. The mattress used in all cribs and playpens fits snugly;

6. Each infant has sheets, blankets and other coverings for his or her exclusive use, which are:

i. Immediately replaced when wet, soiled or damaged; and

ii. Laundered at least once a week;

7. Cribs and playpens are free of hazards including, but not limited to, use of mobiles (for infants six months of age or older) and excessive toys; and

8. Beds or cribs not used solely for a specific infant shall have linens and blankets replaced with clean linens and blankets before each use.

(i) The facility shall provide beds for all adolescents.

(j) The facility shall prohibit the use of bunk beds for pregnant adolescents, adolescent mothers and infants.

§ 3A:55-10.2 Staff and staff to child ratio requirements

(a) The facility shall only employ staff members who are at least 21 years of age.

(b) Facilities may use student interns and volunteers as specified in N.J.A.C. 3A:55-5.5 to support the activities of regular paid staff members. However, student interns and volunteers below the age of 21 years shall not be permitted to provide activities or transportation by themselves.

(c) Facilities that serve three or more pregnant or parenting adolescents shall have at least one staff person who is certified in first aid, infant cardiopulmonary resuscitation (CPR), and CPR, as defined by a recognized health organization (such as the American Red Cross) in the facility during periods of operation.

(d) Facilities serving three or more adolescents shall have a minimum of two staff on duty at all times. Once this minimum is met, the following staff ratios shall be used to determine staff ratio requirements for the actual number of adolescents and infants present in the facility:

Adolescents and/or Infants Present in the Facility	Staff Ratio Requirement
Waking Hours--Infants only	1 staff: 4 infants
Waking Hours--Adolescents only	1 staff: 6 adolescents
Waking Hours--Adolescents and their infants	1 staff: 6 residents
Sleeping Hours--Adolescents with or without infants *	1 staff: 6 residents

* At least one staff member shall be awake.

(e) A facility may permit an adolescent to care for another adolescent's infant if the following conditions are met:

1. The adolescent who is assuming the care of another adolescent's infant cares for no more than one other infant in addition to her own at any one time;

2. The adolescents discuss the expectations of the caregiver, including duration of child care, infant's nutritional and toileting needs, and whether the mother will make arrangements for compensation; and

3. The facility documents approval of the arrangement, including how these arrangements will protect the health and well-being of the infants.

§ 3A:55-10.3 Staff development and training

(a) Upon employment, the facility shall document in each staff member's personnel record that each staff member received instruction in all the areas specified in N.J.A.C. 3A:55-5.4(a)1 through 9 and the following:

1. Recognizing and reporting child abuse and neglect;
2. Infant, toddler, and adolescent growth and development; and
3. Infant feeding and nutrition.

(b) The facility shall develop, document, and maintain on file a training plan to ensure that the director, social service worker(s) and child care staff receive a total of at least 24 hours of training each year that includes at least one hour of training in each of the following topics:

1. Recognizing and reporting child abuse and neglect;
2. Evacuating the facility;
3. Infant and adolescent growth and development;
4. Discipline of adolescents and infants;
5. Infant care and stimulation;
6. Drug, tobacco and alcohol abuse;
7. Human sexuality and AIDS prevention; and
8. Depression and suicide prevention.

(c) The facility's training plan may include in-depth discussions at staff meetings, attendance at workshops, conferences or relevant college courses.

(d) The facility may train staff in evacuating the facility, infant care and development, infant discipline, drug, tobacco and alcohol abuse, and human sexuality and AIDS prevention by including staff in instructional programs attended by the adolescents.

§ 3A:55-10.4 Case management requirements

(a) The facility shall develop, implement and maintain on file a written case management plan for each adolescent and her infant.

(b) The facility shall form a case management planning team that is responsible for the development of a case management plan for each adolescent and infant. The team shall consist of each of the following:

1. Staff members representing the clinical and social work components;

2. Staff members representing the child care component;

3. Staff members representing the administration of the facility, if necessary;

4. Representatives from the adolescent's responsible school district and/or current school district, if necessary;

5. A representative from the Division or other placing agency;

6. The adolescent's family, if appropriate; and

7. The infant's father or paternal relatives, if appropriate.

(c) The facility shall document in the adolescent's and infant's record that the placing agency's representative, the adolescent's therapist, parents, or legal guardian, and the responsible or current school district, if applicable, were invited to participate as members of the case management planning team and in all subsequent revisions of the plan.

(d) The facility shall develop the initial case management plan within 30 calendar days following an adolescent's and/or her infant's admission and shall review or revise the plan at least every three months thereafter.

(e) The case management plan shall include the following information:

1. The name of the adolescent, and infant, if applicable;

2. The date of admission of the adolescent, and infant, if applicable;

3. The date when the plan is developed or revised;

4. The names and titles of all persons attending the development and review meeting;

5. The adolescent's plan for and receipt of medical and dental care;

6. The infant's plan for and receipt of medical care, and dental care if the infant is three years of age or older;

7. Documentation that a referral to the Supplemental Feeding Program for Women, Infants and Children (WIC) was made and that any necessary follow up was done, or documentation that the adolescent or infant was ineligible for WIC;

8. The adolescent's social, familial, emotional and behavioral strengths and weaknesses;

9. An assessment of the infant's father's interest in the child, including a notation of whether the infant's paternity has been legally established;

10. An assessment of the adolescent's parenting capabilities including, but not limited to, the adolescent's ability to feed and play with her infant, provide for her infant's grooming, provide medical care, and use child care responsibly, if applicable;

11. An assessment of the adolescent's academic progress, including a report of attendance and grades obtained within 30 calendar days of the case planning meeting;

12. An assessment of the health and development of the infant, including available developmental assessments from health examinations;

13. Specific treatment goal(s) and objectives in each program area and a projected time frame for completing each goal and objective;

14. The name of the person responsible for the implementation of each treatment goal and objective;

15. Techniques to be used to achieve each treatment goal and objective;

16. Criteria to be used to determine whether each treatment goal is achieved;

17. Notation of progress made from any previous plan;

18. Efforts to achieve timely discharge, including but not limited to services needed by parents or other persons to whom the adolescent will be discharged; and

19. Documentation of how the adolescent is being prepared for self-sufficiency. This documentation shall include, but not be limited to instruction in:

i. Food preparation, including participation in preparing at least one meal a week and training in food shopping at least once a month;

ii. Budgeting and money management, including, but not limited to, discussion of standard deductions from a paycheck, costs for housing and transportation and how to open and use a savings and checking account; and

iii. Career planning and job training, including, but not limited to, discussion of entry level requirements for job openings in the community and assistance in obtaining the qualifications for these positions.

(f) The facility shall send to the placing agency a copy of the case management plan and any revisions to it within 30 calendar days after the planning meeting and retain a copy of the correspondence in the adolescent's and infant's record.

(g) The facility shall explain to the adolescent, her parents, and all persons responsible, the adolescent's and infant's case management plan and any revisions to it. If the facility does not explain the adolescent's and infant's case management plan to the adolescent's parents, the facility shall document in the adolescent's case record the reasons that the plan was not explained to the parents.

(h) The facility shall provide and monitor all services specified in the case management plan and document the rationale for any deviations from the most recent case management plan in the adolescent's and infant's record.

(i) When an adolescent mother expresses interest in surrendering her infant for adoption, the facility shall:

1. Explain to the adolescent mother the implications and process of adoption;

2. Notify the placing agency;

3. Notify the adolescent's parent or legal guardian, if applicable; and

4. Provide the adolescent with information in order to contact legal counsel if she so chooses.

§ 3A:55-10.5 Discharge planning requirements

(a) For discharges that can be anticipated at least 30 calendar days ahead of time, the facility shall develop a plan with the placing agency at least 30 calendar days before the adolescent's or infant's discharge. The plan shall specify the following information:

1. The date of admission;

2. The anticipated date of discharge;

3. Details of the events and circumstances leading to the decision to discharge;

4. The name and address of the individual or agency to whom the adolescent or infant will be discharged and the rationale for planning a discharge to that individual or agency;

5. An assessment of the adolescent's continuing needs, including, but not limited to, consideration of health care, behavior management and educational or vocational training; and

6. An assessment of the infant's continuing needs, including, but not limited to, consideration of health and child care and referral to the Supplemental Feeding Program for Women, Infants and Children (WIC).

(b) For discharges that were not anticipated at least 30 calendar days ahead of time, the facility shall send the placing agency a written plan at least 10 working days prior to the adolescent's or the infant's discharge. This plan shall specify the following information:

1. The date of admission;

2. Details of the events and circumstances leading to the discharge;

3. Efforts made to locate a runaway, if applicable;

4. An assessment of the adolescent's continuing needs, including but not limited to health care, behavior management and educational and vocational training;

5. An assessment of the infant's health and child care needs, if applicable; and

6. Recommendations for providing follow-up services in the adolescent's or infant's new environment, including consideration of whether the adolescent or infant would be eligible for WIC.

(c) For emergency discharges that result in the immediate placement of the adolescent or infant in a facility such as a detention center, hospital, psychiatric facility, or any other placement outside the facility, the facility shall notify the placing agency by the next working day by telephone. The facility shall send a written discharge plan within 15 days after the adolescent's or infant's discharge. This plan shall specify the information outlined in (b)1 through 6 above.

§ 3A:55-10.6 Services regarding paternal involvement

(a) The facility shall explain to the adolescent mother:

1. The benefits of establishing paternity for her infant and her options for establishing paternity;

2. How to establish paternity of the infant, including:

i. Clarification that naming a father on her infant's birth certificate does not establish paternity unless she is or was married to the infant's father; and

ii. Information about the procedures for establishing paternity;

3. How to deal with future questions her infant may have about his or her father;

4. How to manage visitation arrangements between her infant and the infant's father; and

5. That establishing paternity is not a condition for remaining in the facility.

(b) The facility shall discuss the topics specified in (a) above in individual or group meetings with adolescent mothers prior to discharge and assist the adolescent in establishing paternity if she so requests.

(c) Unless contraindicated by the placing agency staff, when the infant's father is known and the adolescent mother agrees, the facility shall attempt to arrange contact with him to discuss his interest in his child.

(d) The facility shall allow the fathers of infants residing in the facility to attend parenting classes provided by the facility.

§ 3A:55-10.7 Services to the adolescent's family

(a) Unless contraindicated by the placing agency staff, the facility shall attempt contact with the adolescent's parents or other adult relatives who are responsible for the adolescent if the parents are not available, to discuss the case management plan.

§ 3A:55-10.8 Parenting education

(a) The facility shall have a written curriculum or guidelines for providing parenting education that shall include the following topics:

1. Infant and child development including alternatives to punishment and options for toilet training;

2. Age-appropriate stimulation, games and other recreational activities for children;

3. Infant safety issues, such as care for the infant while bathing;

4. Providing for child care;

5. Health and nutritional care including an explanation of the Supplemental Feeding Program for Women, Infants and Children (WIC);

6. Relationships with the adolescent mother's family;

7. Dealing with feelings about the adolescent's relationship with the infant's father; and

8. Options for placing the infant in a separate foster care placement or for adoption.

(b) The facility shall provide parenting education on a group or individual basis to each adolescent.

(c) The facility shall provide each adolescent at least one hour of parenting education each week until the facility documents that the adolescent has mastered skills or resolved issues specified in (a) above.

(d) The facility shall involve the adolescent in shopping for her infant's clothes and other necessities.

(e) The facility shall provide information to the adolescent on preventing child abuse and neglect, including, but not limited to:

1. Discussion of mandatory reporting;

2. How to identify and report abuse and neglect; and

3. Resources to help parents avoid abusing or neglecting their children.

§ 3A:55-10.9 Infant stimulation

(a) The facility shall ensure that all infants under three months of age are held and spoken to, and placed in a position to observe group activity when they are awake during daytime hours.

(b) The facility shall ensure that infants up to six months of age are held by their mother or staff members throughout all bottle feedings and that older infants are held if they are incapable of holding a bottle on their own.

(c) The facility shall ensure that all infants have toys that are available to them in their bedrooms.

(d) The facility shall ensure that when adolescent mothers are in school or working, their infants are cared for, either in the facility, in a licensed child care center, or in a registered family child care home.

(e) Facilities that provide services to adolescent mothers and infants between three and 18 months of age shall ensure that the adolescent mothers engage in at least four of the following activities with their infants for at least a total of 45 minutes each day:

1. Sensory activities;
2. Language activities;
3. Manipulative activities;
4. Building activities;
5. Large muscle activities; or
6. Music activities.

(f) Facilities that provide services to adolescent mothers and infants 18 months of age and older shall ensure that adolescent mothers engage in at least four of the following activities with their child for at least a total of 45 minutes each day:

1. Language activities;
2. Science and math activities;
3. Manipulative activities;
4. Large muscle activities;
5. Building activities;
6. Art activities; or
7. Music activities.

(g) The facility shall ensure that television watching is not used as a substitute for mother-child interaction.

§ 3A:55-10.10 Infant toys and equipment

(a) The facility shall only use infant and play equipment that is sturdy and of safe construction, non-toxic and free of hazards.

(b) The facility shall use a choker tube or similar device to ensure that all parts of all toys used by infants under three years of age are large enough so they cannot be swallowed by the infants.

(c) The Office of Licensing may also require the facility to take other necessary precautions to promote toy and equipment safety in keeping with recommendations of the United States Consumer Product Safety Commission.

§ 3A:55-10.11 Recreation

(a) In addition to the requirements specified in N.J.A.C. 3A:55-6.8, the facility shall encourage each adolescent to use her leisure time productively by documenting in the adolescent's case management plan the facility's efforts to:

1. Inform the adolescent of appropriate activities for herself and her infant in the community;

2. Teach the adolescent how to manage time and money, and to be able to participate in recreational activities; and

3. Teach the adolescent how to use public transportation so she and her infant can go to activities in the community.

(b) The facility shall organize monthly outings or planned group activities within the facility for adolescents and their infants.

§ 3A:55-10.12 Money and allowance

(a) The facility shall provide opportunities for all adolescents to earn an allowance, unless doing so would compromise her eligibility for benefits that she receives or may receive.

(b) The facility shall not require an adolescent to assume responsibility for expenses for her care or that of her infant, except for amounts needed to pay for damage done to the facility by the adolescent or her infant.

1. When an adolescent damages the building or the facility's property, the facility shall identify who damaged the building or property in an incident report before requiring the adolescent to pay restitution.

2. When an infant damages the building or the facility's property, the facility shall identify who damaged the property and that the damage resulted from a lack of supervision by the adolescent mother, before requiring the adolescent mother to pay restitution.

3. The restitution payments shall not exceed 50 percent of an adolescent's weekly income from allowance and earnings.

4. Adolescents who are working or have a savings account shall have the option to make a lump sum payment for damages.

5. The facility may offer the adolescent the option of performing additional chores in lieu of restitution payments.

§ 3A:55-10.13 Visiting and communication

(a) The facility shall ensure that the adolescents and infants are allowed to have regular contact with family members, including the infant's father.

1. The facility may designate hours for family visits provided that there are at least three opportunities for families to visit each week.

2. The facility may limit family members' visits to designated places within the facility provided that family members visiting with the infant have access to equipment and toys that can foster communication with the infant.

(b) The facility shall develop a visiting policy and explain the visiting policy to the adolescent and her parent(s) at intake. The visiting policy shall specify:

1. How visiting may be arranged;

2. That family visits shall not be denied for an adolescent's infraction of rules, but may be denied as part of a case management plan after consultation with the placing agency;

3. That family members who are under the influence of drugs or alcohol shall not be allowed to transport the adolescent or her infant;

4. That the adolescent and infant may visit with representatives from the Division or other placing agency upon request and that these visits shall not be denied for any reason;

5. The hours when an adolescent may visit with friends and whether the adolescent's visits with friends may be curtailed for infraction of the rules;

6. That the facility may overrule an adolescent's arrangements for leaving her infant with persons living outside the facility; and

7. That family members, including the infant's father, shall not be denied visitation unless the facility documents how they pose a risk to the infant or adolescent.

§ 3A:55-10.14 Behavior management

(a) Staff members shall follow all the requirements as specified in N.J.A.C. 3A:55-6.14.

(b) The facility shall assign responsibility for the use of restrictive behavior management practices and the discipline, control, and supervision of adolescents to staff members and not delegate that responsibility to other adolescents.

(c) The facility shall prohibit adolescents from using the practices and punishments specified in N.J.A.C. 3A:55-6.14 on their own infants or on another infant for whom they are caring.

(d) The facility shall ensure that no staff member or adolescent mother disciplines an infant for refusing to eat or sleep, or for crying or soiling.

§ 3A:55-10.15 Comprehensive health plan for pregnant adolescents

(a) The facility shall ensure that all pregnant adolescents receive comprehensive prenatal care including, but not limited to:

1. Monthly visits to an obstetrician or certified nurse mid-wife during the first 28 weeks of gestation;

2. Biweekly visits to an obstetrician or certified nurse mid-wife from the 29th to 36th week of gestation;

3. Weekly visits to an obstetrician or certified nurse mid-wife from the 36th week of gestation until delivery;

4. Child birth classes provided by a registered nurse or child birth educator; and

5. A postpartum visit within six weeks of delivery.

(b) The facility shall ensure that pregnant adolescents make up missed medical appointments.

(c) The facility shall refer all pregnant adolescents to the Supplemental Feeding Program for Women, Infants and Children (WIC) and make necessary follow-up, or document that the pregnant adolescent was ineligible for WIC.

(d) The facility shall ensure that arrangements for the birth of the infant are made by the end of the first trimester. If the adolescent enters the facility after the first trimester, the facility shall ensure that arrangements for delivery are made by the second prenatal visit.

1. The facility shall ensure that a system is established to provide background medical information on the pregnant adolescent to the hospital identified for delivery or at the birthing center identified for delivery.

2. The facility shall document that delivery arrangements have been made by recording the name and address of the selected hospital or birthing center in:

i. The adolescent's record; or

ii. As part of the administrative record.

(e) The facility shall ensure that a staff member or volunteer accompanies the adolescent to the hospital or birthing center when she is ready to deliver and that the staff member or volunteer remains with the adolescent until health care personnel are assigned to her.

(f) The facility shall arrange for pregnant adolescents to receive a dental examination within three months of admission and every six months thereafter.

§ 3A:55-10.16 Comprehensive health plan for infants

(a) The facility shall ensure that infants are referred to the Supplemental Feeding Program for Women, Infants and Children (WIC) and make necessary follow-up, or document that the infant was ineligible for WIC.

(b) Unless contraindicated by the infant's physician, the facility shall ensure that adolescent mothers adhere to the following schedule in obtaining health care for infants:

1. At age one month, the infant receives:

   i. A physical examination including height, weight, temperature check, and measurement of head and chest circumference; and

   ii. A check for phenylketonuria (PKU), if indicated, (unless completed prior to the infant's discharge from the hospital);

2. Between two and two and one-half months of age, the infant receives a physical examination;

3. Between three and one-half and four months of age, the infant receives a physical examination and immunizations;

4. Between five and six months of age, the infant receives:

   i. A physical examination; and

   ii. A developmental assessment;

5. Between eight and nine months of age, the infant receives:

   i. A physical examination;

   ii. A hemoglobin test; and

   iii. A sickle cell screening, if indicated;

6. Between 11 and 12 months of age, the infant receives:

   i. A physical examination;

   ii. A developmental assessment; and

   iii. A tuberculin test;

7. At 15 months of age, the infant receives a physical examination;

8. At 18 months of age, the infant receives a physical examination;

9. At 24 months of age and annually thereafter (until age five), the infant receives:

   i. A physical examination;

   ii. A developmental assessment;

   iii. A hemoglobin test; and

iv. Urinalysis, and a tuberculin test if indicated; and

10. By 12 months and semi-annually thereafter, a dental examination.

(c) Unless contraindicated by the physician, the facility shall ensure that infants, toddlers, and children receive all childhood immunizations and boosters within the established age ranges as recommended by the Center for Disease Control's (CDC) Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP).

(d) The facility shall ensure that the adolescent mother has her child's sight and hearing tested when she takes a child over three and one-half years of age for a medical examination. This testing shall be repeated for children ages four and five years old who remain in the facility.

§ 3A:55-10.17 Comprehensive health care for adolescent mothers who are not pregnant

(a) The facility shall ensure that all adolescent mothers who are not pregnant and who have not had a comprehensive health examination within 30 days prior to admission, receive a comprehensive health examination within 72 hours after admission. This comprehensive health examination shall include, but not be limited to, an assessment of:

1. Height and weight;
2. Blood count;
3. Urinalysis;
4. Vision;
5. Hearing; and
6. Gynecological exam.

(b) The facility shall arrange for follow-up medical care recommended as part of the comprehensive health examination.

(c) The facility shall ensure that adolescent mothers receive a dental examination within three months of admission and every six months thereafter.

§ 3A:55-10.18 Care of sick infants

(a) When an infant at the facility has an illness or symptom of illness including, but not limited to, those specified below, the facility shall ensure that the adolescent mother or a staff member contacts a licensed physician:

1. Severe pain or discomfort;

2. Acute diarrhea, characterized as twice the child's usual frequency of bowel movements with a change to a looser consistency within a period of 24 hours;

3. Two or more episodes of acute vomiting within a period of 24 hours;

4. Elevated oral temperature of 101.5 degrees Fahrenheit or over, or axillary temperature of 100.5 degrees Fahrenheit or over in conjunction with behavior changes;

5. Sore throat or severe coughing;

6. Yellow eyes or jaundiced skin;

7. Red eyes with discharge;

8. Infected, untreated skin patches;

9. Difficult or rapid breathing;

10. Skin rashes, excluding diaper rash, lasting more than one day;

11. Weeping or bleeding skin lesions that have not been treated by a physician or nurse;

12. Swollen joints;

13. Visibly enlarged lymph nodes;

14. Stiff neck; or

15. Blood in urine.

(b) The facility shall follow the physician's recommendation whether to permit the infant who is ill to have contact with other infants.

§ 3A:55-10.19 General medical practices

(a) The facility shall ensure that:

1. Any medical, dental, psychological or psychiatric treatment, or medication administered to an adolescent is explained to the adolescent;

2. Any medical, dental, psychological or psychiatric treatment, or medication administered to an infant is explained to the adolescent mother; and

3. The facility shall document all of these explanations in the adolescent's record.

(b) When serious accidents or illnesses occur to an infant, the facility shall take necessary emergency action and notify the adolescent, the adolescent's parent(s), if applicable, the placing agency, and the Office of Licensing immediately.

(c) When serious accidents or illnesses occur to an adolescent, the facility shall take necessary action and notify the adolescent's parent(s) if she is under 18 years of age, the placing agency, and the Office of Licensing immediately.

§ 3A:55-10.20 Medication

(a) The facility shall ensure that adolescents use only prescription and non-prescription medication that is authorized by a physician.

1. The facility shall permit adolescents to administer medication to their infants and themselves, unless a physician, psychiatrist or psychologist advises otherwise; in such cases, the facility shall document the reasons in the adolescent's record.

2. The facility shall ensure that adolescents follow the advice of the infant's physician for administering medication to their infants.

3. The facility shall supervise the adolescent's administration of all medication she gives to her infant and may require the adolescent to record the information specified in (b) below.

(b) The facility shall maintain a medication log book that contains the following information:

1. The name of the adolescent or infant receiving medication, whether prescription or non-prescription;

2. The type of medication, dosage, and intervals between dosages;

3. What to do if a dosage is missed;

4. The reason for the medication;

5. The date and time the medication was administered;

6. Possible side effects of the medication, if any; and

7. The signature and title of staff member or adolescent dispensing medication.

(c) The facility shall ensure that the following procedures for storage are followed:

1. Facilities shall keep prescription and non-prescription drugs in a locked cabinet, or, as needed, a locked container in a refrigerator that is inaccessible to infants;

2. External drugs and internal drugs shall be stored in separate locked shelves;

3. All outdated stocks and prescriptions no longer in use shall be disposed of safely, as specified in N.J.A.C. 3A:55-7.4;

4. The telephone number of the regional poison control center shall be posted at all medication-dispensing stations and by each telephone; and

5. Medical supplies shall be stored in an area accessible to staff members at all times.

(d) In situations where the facility determines that an adolescent is capable of self-administration of prescription birth control-related supplies, the facility may allow the adolescent to maintain prescription birth control-related supplies among her personal possessions, provided that the facility:

1. Provides a locked cabinet or box for storage; and

2. Documents the rationale and arrangements for the adolescent to maintain prescription birth control-related supplies.

§ 3A:55-10.21 Environmental sanitation requirements for disinfecting

(a) The facility shall first wash with soap and water and then disinfect those items specified below with a solution that shall either be:

1. A commercially prepared disinfectant that indicates it kills bacteria, viruses and parasites. This solution shall be used in accordance with label instructions; or

2. A self-made solution consisting of 1/4 cup of household bleach to each gallon of water (one tablespoon per quart), which shall be prepared daily and placed in a labeled, sealed container. This self-made solution shall not be utilized with those items specified in (d)2 below.

(b) The facility shall ensure that the following equipment, items or surfaces are washed and disinfected after each use:

1. Toilet training chairs that have first been emptied into a toilet, unless each infant has his or her own toilet training chair;

2. Sinks and faucets used for handwashing, if the sink is also used for rinsing a toilet training chair;

3. Diapering surfaces, used by more than one infant;

4. Toys mouthed by infants before being given to another infant;

5. Mops used for cleaning; and

6. Oral and rectal thermometers.

(c) The facility shall wash and disinfect the following items at least daily:

1. Toilets and toilet seats used by more than one infant;

2. Diaper pails and lids used by more than one infant;

3. Drinking fountains;

4. Water table and water play equipment;

5. Play tables; and

6. Smooth surfaced non-porous floors in areas used by infants.

(d) The facility shall wash and disinfect the following items at least weekly, and before use by another infant:

1. Cribs, cots, mats, playpens, or other sleeping equipment approved by the Office of Licensing; and

2. Sheets, blankets, or other coverings.

(e) The facility shall wash and disinfect tables used by the infant for eating before each meal.

(f) Facilities that maintain outside sandboxes or play areas containing sand shall ensure that:

1. Only asbestos-free sand is used; and

2. The sand is maintained in a safe and sanitary manner.

§ 3A:55-10.22 Personal hygiene requirements

(a) The facility shall ensure that adolescents and staff members wash their hands with soap and running water immediately:

1. Before preparing or serving food;

2. After diapering a child;

3. After toileting;

4. After assisting a child in toileting;

5. After caring for a child who appears to be sick;

6. After handling animals or their equipment or after coming in contact with an animal's body secretions; and

7. After coming into contact with blood, fecal matter, urine, vomit, saliva, nasal secretions or other body fluids or secretions.

(b) The facility shall ensure that adolescents or staff members:

1. Change each infant's diaper when wet or soiled; and

2. Wash and dry each infant's bottom during each diaper change with an individual disposable washcloth, paper towel or disposable diaper wipes.

(c) The facility shall ensure that soiled diapers are placed in a closed container that is lined with a leakproof or impervious lining.

1. Disposable diapers shall be removed from the facility daily and placed in a closed container that is outside the building and used for refuse collection.

2. Non-disposable diapers shall be stored and laundered separately for each child except when the diapers are laundered by a commercial laundry service.

§ 3A:55-10.23 Health education and physical care for adolescents and infants

(a) The facility shall ensure that adolescents receive training in personal care, hygiene, and grooming habits.

1. The facility shall discuss the physiological changes experienced during adolescent pregnancy and childbearing with adolescents in the facility.

2. The facility shall instruct adolescents about sexually responsible behavior, including how to protect themselves from pregnancy and sexually transmitted diseases including AIDS.

3. The facility shall instruct all adolescents about the health and social consequences of cigarette smoking and alcohol and drug use.

(b) The facility shall ensure that each adolescent bathes and grooms her infant daily, and provides other personal hygiene services that are necessary to meet the infant's needs.

1. The facility shall give each adolescent and infant individual towels and washcloths.

2. The facility shall ensure that soap and toilet paper are available for the adolescents and infants at all times.

(c) The facility shall ensure that each adolescent and infant has a personal supply of adequate, clean, well-fitting, and attractive clothing and footwear appropriate to his or her age, gender, individual needs, community standards, and season.

1. The facility shall ensure that each adolescent's and infant's clothing is kept clean and in good repair. The facility may require adolescents to do their own laundry and that of their infant.

2. The facility shall not require adolescents or infants to wear any article of clothing that would identify them as a resident of the facility.

3. The facility shall supply adolescents with necessary personal hygiene items.

§ 3A:55-10.24 Food and nutrition for infants

(a) In addition to the requirements specified in N.J.A.C. 3A:55-6.11, the facility shall ensure that each adolescent mother obtains and follows a written plan developed with the infant's health care provider regarding the feeding schedule, specific formula, nutritional needs and introduction of new food for each infant.

1. The facility shall maintain on file the feeding schedule of each infant residing in the facility in the infant's record.

2. The facility shall ensure that the adolescent makes the feeding schedule available to all of the infant's caregivers.

§ 3A:55-10.25 Life skills development

(a) The facility shall ensure that the adolescent mothers receive instruction and experience in the following:

1. Meal planning and meal preparation;
2. Food shopping;
3. Locating affordable housing;
4. Securing appropriate medical and dental services;
5. Utilization of public transportation;
6. Home safety guidelines, including but not limited to:
    i. Notifying the local public service or utility company when gas leaks are suspected;
    ii. Keeping the child away from a hot stove;
    iii. The dangers of open windows when infants are present;
    iv. The appropriate methods to rid the home of pests;
    v. Fire prevention; and
    vi. Contacting the appropriate community agency when an emergency occurs;
7. Banking; and
8. Applying for public assistance.

(b) The facility shall document in the adolescent mother's record that she has received the training specified in (a) above.

Title 3A, Chapter 56 -- Manual of Requirements for Children's Group Homes

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 30:1-14 and 15, and 30:4C-4.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2014 d.103, effective May 16, 2014.

See: 46 N.J.R. 7(a), 46 N.J.R. 1473(b).

Chapter 56, Manual of Requirements for Children's Group Homes, was recodified from N.J.A.C. 10:128, Manual of Requirements for Children's Group Homes, by administrative change, effective January 3, 2017. As part of the recodification, attendant technical changes were made to the rule text concerning cross-references, agency names, addresses, etc. See: 49 N.J.R. 98(a).

§ 3A:56-1.1 LEGAL AUTHORITY

(a) This manual is promulgated pursuant to N.J.S.A. 30:1-14 and 15, 30:4C-4, and 30:11B-4, as applied by N.J.S.A. 9:3A-9.

(b) Under N.J.S.A. 30:1-14, 30:4C-4, and 30:11B-4, the Department of Children and Families is authorized to inspect, evaluate, and approve publicly or privately operated homes that provide board, lodging, care, and treatment services for children who are placed and/or financed by the Division of Child Protection and Permanency, Division of Children's System of Care, or any other New Jersey State agency.

(c) Under N.J.S.A. 30:1-14 and 30:11B-4, the following homes shall be subject to inspection, evaluation, and approval by the Department of Children and Families:

1. New Jersey-based children's group homes, as defined in this chapter, except homes that are licensed, approved, or regulated pursuant to State law by the State Department of Health, by the State Department of Education, by the State Department of Corrections, by the State Department of Human Services, or by any other New Jersey State agency; and

2. Out-of-State children's group homes, as defined in this chapter, that serve children under the supervision of the Division of Child Protection and Permanency or the Division of Children's System of Care. As a condition of approval by the Department, such group homes shall be licensed, certified, or otherwise approved to operate in the state where the home is located.

(d) In order to be approved, a children's group home shall demonstrate to the satisfaction of the Department of Children and Families or its duly authorized agent that it complies with all applicable provisions of this manual.

(e) Responsibility for ensuring that these homes comply with the provisions of the statutes cited in (a) above and of this manual is assigned by the Department of Children and Families to the Office of Licensing. The Office is authorized to visit and inspect such homes, as described in N.J.A.C. 3A:56-1.2(a) and (b), to determine the extent of their compliance with such provisions.

(f) Under N.J.S.A. 30:1-15, the Department of Children and Families is also authorized to visit and inspect publicly or privately maintained institutions or other institutions and non-institutional agencies that:

1. Provide board, lodging or care for children who are not placed or financed by the Department of Children and Families or any other New Jersey State agency; and

2. Are not subject to licensing or regulation by any New Jersey State agency.

(g) The Office of Licensing is authorized to visit and inspect such homes as described in (f) above to assess the general health, safety, and well-being of the children and the care and treatment they are receiving, but cannot require their compliance with this manual and must secure an order from a court of competent jurisdiction, pursuant to N.J.S.A. 30:1-16, to compel correction of serious deficiencies.

§ 3A:56-1.2 Definition and types of children's group homes

(a) "Children's group home" or "home" means any public or private establishment other than a resource family home that provides board, lodging, care, and treatment services on a 24-hour basis to 12 or fewer children in a homelike, community-based setting, except that psychiatric community homes for children may have a capacity of 15 or fewer children.

(b) Children's group homes that are subject to the provisions of this manual that typically serve children with less severe behavioral and emotional problems who are capable of functioning in a home-based setting are classified as follows:

1. Group home, which serves from six to 12 children with emotional, social, physical and/or behavioral needs who do not require a more restrictive facility for their own protection or that of others;

2. Supervised transitional living home, which serves 12 or fewer children who are 16 years of age or older, require minimum guidance from staff members in preparation to live independently, and demonstrate maturity to function with minimal adult supervision. Homes that are designed to be located at scattered sites are not included in the requirements for supervised transitional living homes;

3. Teaching family home, which serves 12 or fewer children with emotional, behavioral or other disabilities and which is certified or in the process of being certified as a teaching family home in accordance with the standards of the National Teaching Family Association. Teaching family homes are used for children who require strong professional support and guidance to participate in the life of the community, but who do not require a more restrictive facility for their own protection or that of others;

4. Treatment home, which is an agency-operated residence serving five or fewer children who are capable of community living but who need a small group environment and intensive supervision by staff members in order to ameliorate emotional, social and/or behavioral difficulties. Treatment homes operating in private family dwellings, described as under lease or ownership of the residing family, shall operate at a capacity of no more than three children in placement where there is only one treatment home parent;

5. Alternative care home, which is an agency-operated residence serving three or fewer children with emotional, behavioral or other disabilities and which is certified or is in the process of being certified as an alternative care home in accordance with the standards of the National Teaching Family Association. Alternative care homes are used for children who require strong professional support and guidance to participate in the life of the community, but who do not require a more restrictive facility for their own protection or that of others; and

6. Psychiatric community homes for children, which are community residential programs that provide food, shelter and personal guidance on a 24-hour basis, under such supervision as required, to not more than 15 mentally ill children who require assistance. These homes are funded by or contracted with the Department for children who have received or may be at risk of inpatient care in an inpatient facility and who may benefit from psychiatric treatment within a community home, so as to avert more intensive treatment or to facilitate their return home or placement in a longer term residential facility. Such homes are not considered a health care facility

§ 3A:56-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Adventure activity" means a planned activity of a wilderness or athletic nature that requires specially trained staff members and/or special equipment that is utilized with children to assist in their development of self-confidence and insight.

"Agency" means an organization which has received a certificate of approval from the Office of Licensing to operate more than one group home, treatment home, and/or supervised transitional living home.

"Care management organization" or "CMO" means an organization that delivers case management and other service components as described at N.J.A.C. 10:73, under the Division of Children's System of Care.

"Certificate of approval" or "certificate" means a document issued by the Office of Licensing to a home or agency indicating that the home or agency is in substantial compliance with all applicable provisions of this chapter, and there is no serious or imminent hazard to the education, health, safety, well-being or treatment needs that exists in the home or agency affecting the children.

"Child" means any person who is under 18 years of age and/or any person between the ages of 18 and 21 who is under the supervision of the Department in placement in a children's group home.

"Denial of a certificate" means the withholding by the Office of Licensing of an initial certificate of approval for which a home or agency has applied.

"Department" means the New Jersey Department of Children and Families.

"Director" means the on-site staff member responsible for the daily operation and management of a home.

"Division" means the Division of Child Protection and Permanency, New Jersey Department of Children and Families.

"Exclusion" means the removal of a child to an area or room in the home where there is limited or no stimulation. This removal is a therapeutic intervention and a time for the child to reflect on his or her behavior in order to gain control so he or she can return to the other children.

"Infant" means any person who is under the care of his or her adolescent mother in a home serving adolescent mothers.

"Manual of Requirements for Children's Group Homes" or "manual" means the provisions contained in N.J.A.C. 3A:56-1.1 to 10.25. These provisions constitute minimum baseline requirements below which no home that is subject to the authority of N.J.S.A. 30:1-14, 30:4C-4 and 30:11B-4 is legally permitted to operate.

"Office of Licensing" or "Office" means the Office of Licensing, New Jersey Department of Children and Families.

"Parent" means a birth or adoptive parent, legal guardian, or any other person having responsibility for, or custody of, a child.

"Person" means any individual, agency, corporation, company, association, organization, society, firm, partnership, joint stock company, the State or any political subdivision thereof.

"Placing agency" means an agency that assumes responsibility for payment of room and board for a child placed in a group home, teaching family home, alternative care home, supervised transitional living home, psychiatric community home for children, or treatment home.

"Quality assurance" or "QA" means a program or set of activities designed to monitor, evaluate, and improve care or services provided in order to enhance the health of clients and the effective use of resources.

"Refusal to renew a certificate" means the non-issuance of a certificate of approval by the Office of Licensing to a home or agency after its existing certificate has expired.

"Restraint" means the holding of a child so that he or she cannot move all or part of his or her body, including those instances when staff physically escort the child.

"Restrictive behavior management practice" means the use of physical restraint and exclusion as part of a comprehensive treatment plan to help the child develop self-control, to reduce maladaptive behavior or to protect the child and others from harm.

"Revocation of a certificate" means a permanent removal of a home's or agency's current certificate of approval to operate.

"Risk management" or "RM" means clinical and administrative activities designed to detect, prevent, or reduce risks that could impair client care or client, staff, or visitor comfort or safety.

"Shall" denotes a provision of this manual that a home or agency must meet to qualify for a certificate of approval.

"Should" denotes a recommendation reflecting goals towards which a home or agency is encouraged to work.

"Staff member" or "staff" means any person employed by or working for or at a home or agency on a regularly scheduled basis. This includes full-time, part-time, substitute, volunteer, student intern, contract or consulting personnel, whether compensated or not.

"Suspension of a certificate" means a temporary removal of a home's or agency's current certificate of approval to operate.

"Time out" means instructing a child to calm down and remain quiet for a brief period of time as a means of discipline and to teach the child self-control. A time out may occur in the presence of other staff members and children or in an area of the home where the child has access to stimulation or activities such as a library or the child's bedroom.

"Utilization review" or "UR" means the process of using predefined criteria to evaluate the appropriateness of admissions and continued stays and whether clients are receiving the services best suited to their needs.

§ 3A:56-2.1 Application for a certificate of approval

(a) No person shall operate a children's group home that provides board, lodging, care and treatment services for children who are placed or financed by the Department or any other New Jersey State agency without first securing a certificate of approval from the Office of Licensing, except for homes that are subject to licensing or regulatory approval pursuant to State law by any other New Jersey State agency.

1. Each group home, supervised transitional living home serving six or more children, teaching family home regardless of capacity, and psychiatric community home for children shall obtain an individual certificate of approval.

2. Each agency operating more than one treatment home or alternative care home, or more than one supervised transitional living home serving five or fewer children, shall secure and maintain a single certificate for all such homes in its program, along with a certificate for each approved home. The agency shall ensure and document that individual treatment homes, alternative care homes and supervised transitional living homes serving five or fewer children comply with the provisions of this manual.

(b) A home or agency applying to the Office of Licensing for an initial certificate of approval shall submit a completed application form to the Office, including the documentation specified in N.J.A.C. 3A:56-4.1(a), (b) and (c), at least 45 calendar days prior to the anticipated opening of a home.

(c) A home or agency applying to the Office of Licensing for a renewal of its certificate of approval shall submit a completed application form to the Office, including the documentation specified in N.J.A.C. 3A:56-4.1(d), at least 45 calendar days prior to the expiration of its existing certificate.

(d) An agency submitting an initial application for a certificate of approval for a psychiatric community home for children or subsequent renewal of that certificate shall pay the fee as described below. Checks shall be made payable to the "Treasurer, State of New Jersey." No certificate of approval shall be issued by the Department until payment of this fee has been received by the Department. Failure to pay the renewal fee applicable to an existing certificate of approval shall result in the revocation of that certificate of approval. The fee schedule is as follows:

1. Initial and single renewal application is $ 575.00; and

2. Renewal for each site for agencies with more than one psychiatric community home for children is $ 287.50.

§ 3A:56-2.2 Issuance of a certificate of approval

(a) The Office of Licensing shall issue a certificate of approval to a home or agency that has achieved substantial or full compliance with all applicable provisions of this chapter.

(b) If the Office of Licensing determines that a home or agency cannot be issued a certificate of approval because there is serious or imminent hazard to the education, health, safety, well-being or treatment needs of the children, the Office shall issue a written notification to the home or agency indicating the steps the home or agency must take to secure a certificate of approval.

(c) Each certificate period shall be two years.

1. In determining the expiration date of the first certificate of approval, the Office of Licensing shall compute the two-year approval period from the date of issuance of the first certificate.

2. In determining the expiration date of a renewed certificate, the Office of Licensing shall compute the two-year approval period from the date on which the previous certificate expired. If, however, the home or agency has ceased to operate for a period of one year following the expiration date of its previous certificate, the Office shall compute the date of expiration from the date of issuance of a new certificate.

(d) The certificate of approval shall be issued to a specific home or agency and shall not be transferable.

(e) The home or agency shall maintain its certificate of approval on file.

(f) No home or agency shall make claims either in advertising or in any written or verbal announcement or presentation contrary to its approval status.

§ 3A:56-2.3 Denying, suspending, revoking or refusing to renew a certificate of approval

(a) The Office of Licensing may deny, suspend, revoke or refuse to renew a certificate of approval for good cause, including, but not limited to, the following:

1. Failure to comply with the provisions of this manual;

2. Violation of the terms and conditions of a certificate of approval;

3. Fraud or misrepresentation in obtaining a certificate;

4. Refusal to furnish the Department with files, reports or records as required by this manual;

5. Refusal to permit an authorized representative of the Department to gain admission to the home or agency or to conduct an inspection or investigation;

6. Any activity, policy, or staff conduct that adversely affects or is deemed by the Office of Licensing to be detrimental to the education, health, safety, well-being or treatment needs of children or that otherwise demonstrates unfitness by the owner or staff members of the home to operate a children's group home;

7. Failure of an out-of-State home or agency to maintain a license, approval or certification in its own state;

8. Failure by the agency or director to secure and to maintain on file documentation from the Department showing compliance with criminal conviction disclosures, as specified in N.J.A.C. 3A:56-5.1(b)1, Criminal History Record Information background checks, as specified in N.J.A.C. 3A:56-5.6, or Child Abuse Record Information background checks, as specified in N.J.A.C. 3A:56-5.7;

9. Refusal by the director, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent or household member to consent to or cooperate in a Criminal History Record Information background check or Child Abuse Record Information background check for himself or herself;

10. Refusal by the director to terminate the employment of a staff member who refuses to consent to or cooperate in a Criminal History Record Information background check or Child Abuse Record Information background check;

11. Refusal by the director to terminate the employment of a staff member when an allegation of child abuse or neglect has been substantiated against the staff member;

12. Refusal by the director to terminate the employment of a staff member convicted of a crime or offense requiring disqualification, as specified in N.J.A.C. 3A:56-5.6(e);

13. A substantiated allegation of child abuse or neglect against the director, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent or household member; and

14. Conviction by the director, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent or household member for a crime or offense requiring disqualification, as specified in N.J.A.C. 3A:56-5.6(e).

(b) The Office of Licensing shall provide written notice to the home or agency if it intends to deny, suspend, revoke or refuse to renew its application for a certificate. This notice shall specify the Office's reasons for such action.

(c) If the Office of Licensing denies, revokes, or refuses to renew a certificate of approval, as specified in (a) above, the home or agency shall be prohibited from reapplying for a certificate of approval for one year from the date of certificate denial, revocation or refusal to renew. After the one-year period has elapsed, the home or agency may submit to the Office a new application for a certificate.

(d) If a certificate is suspended, the Office of Licensing shall issue or reinstate the certificate once the home or agency achieves compliance with the provisions of this manual. In such a case, the Office shall not require the home or agency to submit a new application for a certificate unless such reapplication is expressly made a condition of the issuance or reinstatement of the certificate.

(e) Each certificate of approval issued by the Office of Licensing to a home or agency remains the property of the State of New Jersey. If the Office suspends or revokes a certificate of approval, the home or agency shall return the certificate of approval to the Office immediately.

§ 3A:56-2.4 Administrative hearings

(a) If a home or agency fails to comply with all applicable provisions of this manual, the Office of Licensing shall issue a directive ordering compliance. Prior to the Office's decision to deny, suspend, refuse to renew or revoke a home's or agency's certificate of approval, the home or agency shall have the opportunity to request an administrative hearing, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) As long as the Department determines that children are not at risk and that no imminent dangers exist, the Office of Licensing may permit a home or agency that has requested an administrative hearing, as specified in (a) above, to continue to operate until a final decision is rendered as a result of the hearing.

§ 3A:56-2.5 Complaints

(a) Whenever the Office of Licensing receives a report questioning the approval status or compliance of a home or agency or alleging a violation of this manual, the Office shall ensure that the allegation is promptly investigated to determine whether the complaint is substantiated.

(b) After the report of the investigation has been completed, the Office of Licensing shall notify the home or agency in writing of the results of the investigation within 15 days, pursuant to the State Public Records Law, N.J.S.A. 47:1A-1 et seq., with the exception of any information not permitted to be disclosed pursuant to the Child Abuse and Neglect Law, N.J.S.A. 9:6-8.10a, or any other State law.

(c) Whenever the Department, through its Office of Licensing, Institutional Abuse Investigation Unit or other offices, conducts complaint investigations, the home or agency shall cooperate with all Department investigators.

§ 3A:56-2.6 Public access to licensing records

Licensing files maintained by the Office of Licensing are public records and shall be readily accessible for examination by any person, under the direction and supervision of the Office, except when public access to records is restricted, in keeping with the State Public Records Law, N.J.S.A. 47:1A-1 et seq., or other applicable statutes.

§ 3A:56-3.1 Statement of purpose

(a) The home or agency shall maintain on file a written statement of purpose that shall identify the following:

1. The home's philosophy, goals, and objectives;

2. Characteristics of the children to be served;

3. Types of treatment services provided to the children, including those provided directly by the home and those provided in cooperation with community agencies or outside individuals;

4. Procedures for implementing those services; and

5. Criteria for successful completion of the program.

(b) The home or agency shall give this statement of purpose to the parents of the children applying for services, to all staff members and to all persons who request this information.

(c) The home or agency shall secure and maintain on file a record of the parents' and staff members' signatures attesting to their receipt of the statement of purpose.

§ 3A:56-3.2 Rights of children

(a) The home or agency shall prepare a list of children's rights and shall post it in a prominent location in each home and give it to the children and document such in each child's record. At a minimum, the list shall specify the children's right to:

1. Receive prompt medical treatment;

2. Have access to an appropriate education;

3. Live in a safe, clean and healthy environment;

4. Be free of physical, emotional, or sexual harassment or abuse and corporal punishment;

5. Attend religious services of their choice; and

6. Have unimpeded communication to the Department.

(b) The home or agency shall give this list of children's rights to the parents of the children applying for admission, to all staff members and to all persons who request this information.

(c) The home or agency shall secure and maintain on file a record of the parents' and staff members' signatures attesting to their receipt of the list of children's rights.

(d) If the home or agency chooses to develop a search and seizure policy, the home or agency shall give all children, staff and parents a copy of this policy, as specified in N.J.A.C. 3A:56-6.15.

(e) The home or agency shall prepare, post, and give to all staff members and children a written grievance procedure governing how the children may raise questions about or voice disagreements with and concerns about procedures, care, and specific incidents. The home or agency shall not take or threaten to take retaliatory or disciplinary action of any kind against a child who uses the grievance procedure or files a grievance. The home shall provide a procedure to explain the above to children who are developmentally disabled.

§ 3A:56-3.3 Information to parents and staff members

(a) The home or agency shall provide to every parent within five working days of his or her child's placement, and to every person upon becoming a staff member, a written document indicating that the home or agency is required to:

1. Secure a certificate of approval to operate from the Office of Licensing;

2. Comply with all applicable provisions of the manual;

3. Retain a current copy of the manual and make it available for review by parents of resident children;

4. Indicate how parents may secure a copy of the manual by contacting the Office of Licensing, Department of Children and Families, PO Box 717, Trenton, New Jersey 08625-0717;

5. Afford parents the opportunity and time to review and discuss with the home or agency director any questions or concerns about policies, requirements, provisions, or alleged violations of the manual;

6. Advise parents that if they believe or suspect that the home or agency is in violation of any provision of the manual, they may report such alleged violations to the Office of Licensing;

7. Make available, upon request, for parents' review the Office's Inspection/Violation and Complaint Reports on the home or agency, as well as any letters of enforcement or other actions taken against the home or agency during the current certificate of approval period;

8. Inform parents that they may request a copy of the home's or agency's behavior management policy, as specified in N.J.A.C. 3A:56-6.13 and 6.14;

9. Inform parents that the home or agency is required to provide the child's parents with copies of the home's or agency's visitation and communication policies, a copy of the procedure for expressing concern or registering complaints regarding their child's placement, a copy of the search and seizure policy, if any, and a description of its religious policies, including a statement that the child has a right to practice his or her religion;

10. Indicate through this document that any person who has reasonable cause to believe that a child residing in the home has been or is being subjected to any form of hitting, corporal punishment, abusive language, ridicule, or harsh, humiliating, or frightening treatment, or any other kind of child abuse, neglect or exploitation by any person, whether working at the home or not, is required by State law to report such allegations to the Department's State Central Registry at 1-877-NJ-ABUSE (1-877-652-2873) immediately, and indicate that such reports may be made anonymously;

11. Indicate through this document that parents and staff members may secure information about the prevention and reporting of child abuse and neglect from the Department of Children and Families online at www.nj.gov/dcf/reporting;

12. Inform parents that the home or agency must secure written consent from the child's parents before the home or agency may involve the child in fund-raising, publicity, or audiovisual activities related to the home or agency;

13. Inform parents that the home will develop a visitation schedule for parents and children, as specified in N.J.A.C. 3A:56-6.6, 9.20, and 10.13; and

14. Inform parents that the home or agency shall obtain written consent from the child's parent for the use of any restrictive behavior management practice used by the home and to administer psychotropic medication.

(b) The home or agency shall comply with the requirements specified in (a) above by:

1. Securing the parent's and staff member's signature on a record attesting to receipt of the document; and

2. Maintaining the record on file; or

3. Documenting in the record the attempts made to secure the parent's signature.

§ 3A:56-3.4 Community participation

(a) Every agency, group home, psychiatric community home for children, and supervised transitional living home shall develop a governing board that offers advice and counsel to the home on its policies, staff recruitment, selection and training, physical environment, and program activities. Such a committee shall include representatives from the civic, business, or educational community.

(b) The governing board shall establish policies that encourage and enhance community relations, such as having the home sponsor an open house.

(c) The director of the home shall ensure that community activities have been scheduled or completed and provide updates on community involvement to the governing board on a quarterly basis.

(d) The governing board shall meet at least quarterly. The home shall keep on file a list of current membership of the governing board and a record of its meetings.

§ 3A:56-3.5 Conflict of interest

(a) Any home or agency receiving funds from the Department shall adopt a written conflict of interest policy, as required by the home's or agency's contract with the Department of Children and Families.

1. The home or agency shall ensure that a copy of the adopted policy, with its effective date, is forwarded to all governing board members and staff members and is posted in a prominent location or kept on file at the home or agency.

2. The governing board shall ensure that the conflict of interest policy is adhered to by home or agency directors through the governing board's review of the home's or agency's policies involving the purchasing of goods or services and hiring practices.

§ 3A:56-3.6 Intake and admissions

(a) The home or agency shall ensure that the child and his or her parents have an opportunity to visit the home prior to the child's placement.

(b) For all placements, the home or agency shall have the following information on file in the child's record upon the child's admission:

1. The child's full name, nicknames, if any, gender, date of birth, religion, and race;

2. The name, address, telephone number, and relationship to the child of the persons with whom the child was living at the time of admission;

3. The name, address, and telephone number of father, mother, foster parents, or legal guardians, if different from (b)2 above;

4. The name, address, and telephone number of the worker of the Department's local office or other placing agency;

5. The name, address, and telephone number of the person to notify in an emergency;

6. The names of siblings, their ages, and gender;

7. The reason for placement of the child;

8. A Medicaid card, if applicable; and

9. A statement signed by the parents or legal guardian, granting consent for emergency medical or surgical care, semi-annual dental care and annual physical examinations for the child.

(c) For non-emergency placements and emergency placements, in addition to (b) above the home or agency shall have the following information on file in the child's record within 30 calendar days of the child's admission:

1. Schools attended, grade level, and employer, if any;

2. Discharge summaries from previous placements, if any;

3. The child's medical history, including chronic conditions, past serious illnesses, allergies, medications, immunizations and special diet; and

4. A discharge plan, including the estimated duration of care.

(d) If the home or agency is unable to obtain the information specified in N.J.A.C. 3A:56-3.6(c) within 30 calendar days of the child's admission, the home shall document in the child's file its efforts to obtain such information.

(e) For all placements into psychiatric community homes for children, in addition to (b) and (c) above, the home shall have the following information on file in the child's record within 10 working days of admission:

1. A current bio-psychosocial history;

2. A current psychiatric evaluation completed within the past 60 days;

3. A current child study team evaluation and individual education plan, as applicable; and

4. A description of the child's social, recreational, vocational and behavioral needs.

5. Immediately following the child's admission, the home shall:

i. Give each child a secure place to store valuables;

ii. Ask the child to sign or otherwise verify that a staff member explained house rules and regulations, children's rights as specified in N.J.A.C. 10:123-3.2, discipline policy and search and seizure policy, if any; and

iii. Inform each child of fire exits and evacuation procedures.

§ 3A:56-3.7 Reporting requirements

(a) The director or any staff member shall notify verbally the Department's State Central Registry at 1-877-NJ-ABUSE (1-877-652-2873) immediately whenever there is reasonable cause to believe that a child has been or is being abused or neglected by staff members, children, or any other person, as required by the New Jersey Child Abuse and Neglect Law, N.J.S.A. 9:6-8.9, 8.10, 8.13, and 8.14. Copies of the law and information about it are available online from the Department of Children and Families at www.nj.gov/dcf/reporting.

(b) The home or agency shall notify the Office of Licensing verbally of any of the following changes or events by the next working day after the home or agency learns of their occurrence, to be followed by written notification to the Office within five working days:

1. Injury, accident or illness that results in the admittance of a child to a hospital;

2. The death of a child while admitted to the home;

3. Temporary or permanent closing or temporary relocation of a home or agency due to an emergency;

4. Any convictions or guilty pleas of any agency or home staff members that involve or affect any child or the operation of the home or agency, as specified in N.J.A.C. 3A:56-5.1(b); and

5. Evidence of the presence of bed bugs.

(c) The home or agency shall notify the Office of Licensing verbally of any of the following changes or events by the next working day after the home or agency learns of their occurrence:

1. The occurrence of a reportable disease, as specified in Subchapters 1 and 2 of the State Sanitary Code, N.J.A.C. 8:57;

2. Damage to the premises of the home caused by fire, accident or the weather; and

3. Proposed use of space due to an emergency involving rooms not approved by the Office of Licensing, as specified in N.J.A.C. 3A:56-4.1(a)5.

(d) The home or agency shall notify the Office of Licensing in writing at least 30 calendar days before any of the following proposed changes or events:

1. The anticipated closing or relocation of a home or agency for any reason other than temporary closings for holidays and vacations;

2. A change of director or administrator of the home;

3. A change of type of children served;

4. A change of services offered, including the opening of a new treatment home or supervised transitional living home serving fewer than six children; or

5. A renovation to the home or alteration of Office of Licensing approved room configurations or uses, such as changing bedrooms, common areas, or other spaces.

(e) The home or agency shall notify the Division, CMO, and the child's parents within 24 hours of any unauthorized absence of a child from a home.

(f) The home or agency shall comply with the Unusual Incident Reporting System.

§ 3A:56-3.8 Records

(a) The home's or agency's records shall be open for inspection by authorized representatives of the Office of Licensing, the Division of Children's System of Care, the Department's Institutional Abuse Investigation Unit (IAIU), the Department's contracting units, Division workers, provided that they may only secure information about children under the Department's supervision, and other departmental units as warranted.

(b) The home or agency shall maintain on file the following administrative records until the expiration of its certificate of approval:

1. The following records shall be maintained in files located either at an agency's administrative office or at the home:

i. A record of comprehensive general liability insurance, as specified in N.J.A.C. 3A:56-3.9;

ii. A record of performance of required monthly fire drills and/or evacuation drills, as specified in N.J.A.C. 3A:56-4.5(c);

iii. A record of training sessions for staff members on evacuation procedures, the use of fire extinguishers, the location of fire alarms, and emergency medical procedures, as specified in N.J.A.C. 3A:56-5.4(a)3;

iv. A copy of the home's or agency's vehicle insurance policy, as specified in N.J.A.C. 3A:56-8.2; and

v. Transportation records, if transportation is provided to children residing in the home, as specified in N.J.A.C. 3A:56-8.4.

2. The following records shall be maintained in files located at the home:

i. A current manual;

ii. A statement of purpose, as specified in N.J.A.C. 3A:56-3.1 and 9.1(b);

iii. The Life/Safety and Program Inspection/Violation reports and Complaint Investigation Summary reports, if applicable, from the Office of Licensing, as well as letters of enforcement or other actions taken against the agency or home, if applicable, that cover the current certificate of approval period;

iv. The document providing information to parents, as specified in N.J.A.C. 3A:56-3.3(a);

v. A record of each parent's signature attesting to the receipt of the information to parents document, as specified in N.J.A.C. 3A:56-3.3(b)1;

vi. Documentation of the use of extermination services, if applicable, as specified in N.J.A.C. 3A:56-4.3(a)7;

vii. Policies and procedures regarding behavior management, as specified in N.J.A.C. 3A:56-6.13, 6.14 and 10.14;

viii. A record of in-service training conducted for staff members, as specified in N.J.A.C. 3A:56-5.4 and 10.3;

ix. A record of all incidents and accidents, recorded on incident and accident report forms by the involved staff member(s), noting all details of the incident and accident and any actions taken by the staff members, as specified in N.J.A.C. 3A:56-6.13, 7.3(b), and 9.3(a) and (b);

x. A copy of the comprehensive health plan, as specified in N.J.A.C. 3A:56-7.1, 10.15 and 10.16;

xi. Copies of menus of food served to the children, including special diets, as specified in N.J.A.C. 3A:56-6.11 and 10.24;

xii. Aggregate statistical information on children served, including the date of each admission, date of each discharge, and reason for each discharge, as specified in N.J.A.C. 3A:56-5.2(a)10;

xiii. A record of signed parental consent for children's participation in fund-raising, publicity, photography, or audiovisual activities related to the home, as specified in N.J.A.C. 3A:56-3.2(a)11;

xiv. A copy of the children's grievance procedures, as specified in N.J.A.C. 3A:56-3.2(d);

xv. A record of signed parental consent for medical treatment for each child, as specified in N.J.A.C. 3A:56-3.6(b);

xvi. A daily record log, in which an on-duty staff member shall comment on positive and negative significant activities and events, such as, aggressive behavior, damage to property, running away, a child threatening self-harm or refusing to meet his or her daily needs, educational achievements or problems demonstrated by the child and other personal achievements of the child that occur, along with the staff member's response to those events;

xvii. A daily log book, a separate log book or notation in the child's case record, in which all visits to the child shall be recorded;

xviii. A copy of the staff members' work schedules and time sheets;

xix. A medication log book, as specified in N.J.A.C. 3A:56-7.4, 7.5 and 10.20;

xx. For group homes, a written daily schedule of planned recreational, leisure time and physical exercise activities, as specified in N.J.A.C. 3A:56-6.8(b) and 10.11;

xxi. A record of pet vaccinations and the name and address of the licensed veterinarian providing care for the pets, as specified in N.J.A.C. 3A:56-6.12;

xxii. A copy of the parenting education curriculum, as specified in N.J.A.C. 3A:56-10.8;

xxiii. A copy of the plan for emergency evacuation procedures, as specified in N.J.A.C. 3A:56-9.2(a);

xxiv. A copy of the plan for search and rescue procedures, as specified in N.J.A.C. 3A:56-9.2(b);

xxv. Copies of biking permits, as specified in N.J.A.C. 3A:56-9.4(a);

xxvi. Documentation that permission was obtained to enter a cave from the owner or public authority, as specified in N.J.A.C. 3A:56-9.6(c);

xxvii. Documentation on the care of horses, as specified in N.J.A.C. 3A:56-9.8(c);

xxviii. Documentation on the safety of ropes used in climbing, as specified in N.J.A.C. 3A:56-9.9(d);

xxix. A copy of the plan for boating activities, as specified in N.J.A.C. 3A:56-9.10;

xxx. Copies of all permits, certificates or licenses for camping, as specified in N.J.A.C. 3A:56-9.15;

xxxi. A copy of the policy for treating snake, animal and insect bites and ingestion or contact with poisonous plants, as specified in N.J.A.C. 3A:56-9.17(c);

xxxii. A copy of the plan and procedures that enable children to receive an emergency message, and send and receive mail, as specified in N.J.A.C. 3A:56-9.20(c);

xxxiii. Documentation that children were permitted to make free telephone calls, as specified in N.J.A.C. 3A:56-9.20(e);

xxxiv. A copy of the policy for visitation and communication for parents, as specified in N.J.A.C. 3A:56-9.20(g); and

xxxv. A copy of the feed plan for horses, as specified in N.J.A.C. 3A:56-9.8 and 9.16.

(c) The home or agency shall maintain on file the following staff records throughout a staff member's employment and for one year after the staff member has stopped working at the home.

1. The following records for the director and all staff members shall be maintained in files located either at an agency's administrative office or at the home:

i. Applications for employment, as specified in N.J.A.C. 3A:56-5.1(b) and 9.18;

ii. References on the director and staff members, as specified in N.J.A.C. 3A:56-5.1(b) and 9.18;

iii. A record of each staff member's signature attesting to his or her receipt of the policy statement on the disciplining of children by staff members, as specified in N.J.A.C. 3A:56-3.3(b);

iv. A record of each staff member's signature attesting to his or her receipt of the information to parents document, as specified in N.J.A.C. 3A:56-3.3(b);

v. Health information, as specified in N.J.A.C. 3A:56-7.7;

vi. A copy of a home study, as specified in N.J.A.C. 3A:56-5.1(b)4; and

vii. Documentation of completion of a Criminal History Record Information background check, as specified in N.J.A.C. 3A:56-5.6, and a Child Abuse Record Information background check, as specified in N.J.A.C. 3A:56-5.7.

2. The following staff records shall be maintained in files located at the home:

i. Current staff member attendance sheets;

ii. A full written disclosure of the director's and every staff member's background, previous work experience and criminal convictions, if any, as specified in N.J.A.C. 3A:56-5.1(b) and 9.18;

iii. Documentation that every staff member received and reviewed a copy of the home's statement of purpose, grievance policy, children's bill of rights, fireplace policy and search and seizure policy, as specified in N.J.A.C. 3A:56-3.1(b) and 3.3(b); and

iv. Documentation of training received by staff members, as specified in N.J.A.C. 3A:56-5.4 and 10.3.

(d) The home shall maintain on file the children's records set forth in (d)1i through xii below during the child's placement at the home or agency and for at least four years following the discharge of the child.

1. The home or agency shall ensure the confidentiality of the following records for each child, in accordance with New Jersey State law:

i. Identifying information, as specified in N.J.A.C. 3A:56-3.6(b) and (c);

ii. A copy of each treatment plan developed for the child, for group homes, teaching family homes, psychiatric community homes for children, alternative care homes or treatment homes, as specified in N.J.A.C. 3A:56-6.1; a copy of the case management plan for supervised transitional living homes, as specified in N.J.A.C. 3A:56-6.3; and a copy of the case management plan for homes that serve pregnant and parenting adolescents, as specified in N.J.A.C. 3A:56-10.4;

iii. Education records, as specified in N.J.A.C. 3A:56-6.7;

iv. Reports of incidents, including, but not limited to, acts of aggression, violent or destructive behavior, discovery of contraband, suicidal threats, discovery of a weapon, inappropriate sexual behavior, involvement with the police and documentation of efforts made to locate runaways, as specified in N.J.A.C. 3A:56-6.13, 6.14, 6.15 and 6.16;

v. Reports of accidents, as specified in N.J.A.C. 3A:56-7.3 and 9.3(a) and (b);

vi. Documentation of the opening of a child's mail by a home staff member, as specified in N.J.A.C. 3A:56-6.6;

vii. Medical records, as specified in N.J.A.C. 3A:56-7.2 and 9.17(a) and (b);

viii. A discharge summary, as specified in N.J.A.C. 3A:56-6.2 and 10.5;

ix. An aftercare plan, as specified in N.J.A.C. 3A:56-6.2 and 10.5;

x. An infant's feeding schedule, as specified in N.J.A.C. 3A:56-10.24;

xi. Documentation that an adolescent mother received life skills development training, as specified in N.J.A.C. 3A:56-10.25;

xii. Documentation that a child received information on adventure activities, as specified in N.J.A.C. 3A:56-9.1(d); and

xiii. A copy of the court order establishing custody or guardianship when an individual other than a parent signs consent forms or other documents of acknowledgement.

2. The home or agency shall ensure that all entries in the child's record indicate the entry date and the name and signature of the person making the entry.

(e) The home or agency shall ensure that any written information provided to children uses language which is understandable to them in regard to their age and development.

(f) A home or agency that chooses to utilize electronic records shall ensure the system is backed up in case of system failure and that staff has access to pertinent information for each child in case of temporary system unavailability.

§ 3A:56-3.9 Comprehensive general liability insurance

A home or agency shall secure comprehensive general liability insurance coverage and shall maintain on file a copy of the insurance policy.

§ 3A:56-3.10 Quality assurance (QA) for psychiatric community homes for children

(a) Each psychiatric community home for children shall maintain an ongoing and systematic process to monitor and evaluate important aspects of care with participation by all levels of staff. This process shall be written and referred to as the QA plan.

1. The QA plan shall describe outcome indicators, evaluation criteria and procedures for monitoring problem correction.

2. The QA plan shall include the review of open and closed records to evaluate the quality and appropriateness of treatment and compliance with documentation requirements.

3. The QA plan shall describe the process, frequency and criteria for case selection.

4. The QA plan shall identify the persons responsible for QA activities and the administrative structure for QA oversight and implementation.

(b) Each QA plan shall include a risk management (RM) component, which shall address areas that are deemed to be high risk, high volume or problem prone. The RM component shall include, but is not limited to:

1. The monitoring of the home's or agency's policies and procedures regarding the use of medication and restrictive behavior management practices;

2. The monitoring of life/safety aspects of the program site;

3. An incident review and reporting procedure that will allow for the analysis of client and staff incidents to identify patterns and trends or opportunities to improve client care, staff safety and to reduce agency liability risks;

4. Development of an infection control policy and monitoring of the implementation of the policy; and

5. The review and process to address client complaints, grievances and suggestions.

(c) Each QA plan shall include a utilization review (UR) component, which shall review the appropriateness of admissions and continued stays in a program. The UR component shall include, but not be limited to:

1. Written criteria developed for admission and continued stays for each program service;

2. Written criteria developed for the processing of inappropriate admissions and continued stays. This shall include a description of the process to appropriately terminate or transfer clients meeting the criteria of inappropriate admission and continued stays;

3. Criteria developed to assess the length of stay, using professionally accepted clinical treatment norms and the treatment philosophy of the home or agency; and

4. Documenting the reasons in the client's record for continued service for a client who exceeds the identified length of stay.

(d) The QA plan shall be reviewed and evaluated for effectiveness on an annual basis.

§ 3A:56-4.1 Physical facility initial approval requirements for all homes located in New Jersey

(a) An applicant seeking an initial certificate of approval, as specified in N.J.A.C. 3A:56-2.1, to operate a home shall comply with all applicable provisions of the New Jersey Uniform Construction Code, as specified in N.J.A.C. 5:23 (hereinafter referred to as the "NJUCC").

1. For newly constructed buildings, for existing buildings whose construction code use group classification would change from that which it had been, or for existing buildings that require major alteration or renovation, the home or agency shall submit to the Office of Licensing a copy of a Certificate of Occupancy (CO) issued by the municipality in which it is located, reflecting the home's compliance with provisions of the NJUCC, for one of the following use group classifications:

i. I-1 (Institutional) for buildings accommodating children 2 1/2 years of age and older for more than 30 calendar days and having a total occupancy of more than five and fewer than 13 children, except that existing homes with an R-2 CO issued prior to May 5, 2003, may continue to operate as allowed by the NJUCC;

ii. I-2 (Institutional) for buildings accommodating six or more children less than 2 1/2 years of age; or

iii. R-3/R-5 (Residential) for homes having a total occupancy of five or fewer children.

2. For homes or agencies that are planning to construct a new building, the home or agency shall submit to the Office of Licensing:

i. Preliminary architectural drawings for review and comment prior to beginning construction; and

ii. If applicable, revised architectural or final drawings containing all required items listed in the preliminary plan review for final approval from the Office of Licensing before the home can open.

3. For buildings constructed after the adoption of the NJUCC (1977), whose construction code use group classification is already R-2, R-3, R-5, I-1, or I-2 and that have not had major alterations or renovations since receipt of the CO, the home or agency shall obtain the CO issued by the municipality in which it is located at the time the building was originally constructed or approved for use in the NJUCC's R-2, R-3, R-5, I-1, or I-2 use group classification. The home or agency shall submit a copy of the building's CO to the Office of Licensing.

4. For existing buildings, whose use prior to the adoption of the NJUCC (before 1977) was and continues to be for a home and that have not had major alterations or renovations, the home shall obtain a Certificate of Continued Occupancy (CCO) or a letter to this effect, issued by the municipality in which it is located, reflecting the building's compliance with provisions of the municipality's construction code requirements that were in effect at the time it was originally constructed or converted for use as a home. The home or agency shall submit a copy of the building's CCO or letter reflecting the building's compliance to the Office of Licensing.

5. The home or agency shall obtain a new CO issued by the municipality in which it is located, reflecting the building's compliance with provisions of the applicable NJUCC use group

classification, and submit a copy of the new CO to the Office of Licensing whenever it takes any of the following actions:

i. Changes the building's use group classification to one other than the one prescribed on its original CO;

ii. Makes a major alteration or renovation, as defined by the NJUCC, of the building or premises where the home is located;

iii. Increases the floor area or the number of stories to the building or premises where the home is located; or

iv. Relocates to another site.

6. Whenever a municipality grants a home a written variation from any of the requirements of the NJUCC, the Office of Licensing may accept such variations as meeting the applicable requirements of this manual.

(b) An applicant seeking an initial approval, as specified in N.J.A.C. 3A:56-2.1, to operate a home shall comply with all applicable provisions of the New Jersey Uniform Fire Code, as specified in N.J.A.C. 5:70 (hereinafter referred to as the "NJUFC"). A home or agency with a capacity of six or more children shall obtain the building's fire safety inspection certificate issued by the municipality in which it is located, based on a fire inspection conducted within the preceding 12 months, reflecting the home's compliance with all applicable provisions of the NJUFC. The home or agency shall submit a copy of the building's fire safety inspection certificate to the Office of Licensing.

(c) An applicant seeking an initial approval, as specified in N.J.A.C. 3A:56-2.1, to operate a home shall comply with all applicable provisions of the State Sanitary Code, as specified in N.J.A.C. 8:24. A home or agency with a capacity of six or more children shall obtain a certificate or statement of satisfactory health approval issued by the applicable municipal, county, or State health agency, based on a health inspection conducted within the preceding 12 months, certifying that the home complies with applicable provisions of local, county, and State health codes and poses no health hazard to the children served. The home or agency shall submit a copy of the certificate or statement of satisfactory health approval to the Office of Licensing.

(d) All approved homes shall maintain continued compliance with the NJUFC and State Sanitary Code, as applicable. An applicant seeking the renewal of a certificate of approval to continue operating a home for six or more children shall obtain and submit to the Office of Licensing, copies of:

1. A current fire safety inspection certificate for the building; and

2. A current certificate or statement of satisfactory health approval for the home.

§ 3A:56-4.2 Physical facility initial approval requirements for all homes located outside of New Jersey

(a) A home located in a state other than New Jersey shall submit with each application documentation that the home meets the provisions of all applicable codes governing building, fire, safety and health requirements in the state, county and municipality in which the home is located.

(b) All homes located in a state other than New Jersey shall also comply with the physical facility and life-safety requirements specified in N.J.A.C. 3A:56-4, with the exception of N.J.A.C. 3A:56-4.4(c), (f)3, (g), (h), (i), and (l).

§ 3A:56-4.3 Maintenance and sanitation requirements for all homes

(a) The home shall maintain all indoor areas in a safe and sanitary manner by ensuring that:

1. The home is free of moisture resulting from water leaks or seepage;

2. All lally columns in areas used by the children have protective padding from the floor to a height of at least 72 inches;

3. Floors, walls, ceilings and other surfaces are kept clean and in good repair;

4. Stairways are free of hazards such as boxes, loose steps, torn carpeting or raised strips;

5. Carpeting is secured to the floor;

6. Garbage and food receptacles are:

i. Made of durable, leakproof and nonabsorbent materials;

ii. Covered in a secure manner;

iii. Emptied to the outdoor garbage receptacle when filled; and

iv. Lined and maintained in a sanitary manner;

7. The home is free of rodent or insect infestation. If there is evidence of rodent or insect infestation, immediate action shall be taken to remove such infestation. In the event of an infestation of bed bugs, the home or agency shall implement an 18-month corrective action plan, with updates submitted to the Office of Licensing every six months during this period. The home shall maintain on file a record documenting the use of extermination services in these incidences;

8. Toilets, wash basins, kitchen sinks, and other plumbing are maintained in good operating and sanitary condition;

9. All corrosive agents, insecticides, bleaches, detergents, polishes, any products under pressure in an aerosol can, and any toxic substance are stored in a locked cabinet or in an enclosure located in an area not accessible to children under six years of age;

10. Ventilation outlets are clean and free from obstructions, and filters are replaced when saturated;

11. Walls are painted or otherwise covered whenever there is evidence of:

i. Excessive peeling or chipped paint; or

ii. Heavily soiled conditions;

12. All shelving is secured and not overloaded; and

13. Electrical wiring, accessories, and appliances are maintained in good operating and safe condition:

i. Extension cords shall not be used and only UL approved surge protection power outlet strips may be permitted; and

ii. Major appliances shall be plugged directly into a wall electrical outlet.

(b) The home shall maintain all outdoor areas in a safe and sanitary manner by ensuring that:

1. The building, land and outdoor play area are free from any hazards to the health, safety or welfare of the children;

2. The outdoor play area is graded or provided with drains to dispose of surface water;

3. The building structure is maintained to prevent:

i. Water from entering;

ii. Excessive drafts or heat loss; and

iii. Infestation from rodents and insects;

4. The railings of balconies, landings, porches, or steps are maintained in safe condition;

5. Garbage receptacles are:

i. Made of durable, leakproof and nonabsorbent materials; and

ii. Covered in a secure manner, maintained in a sanitary manner and located in an outdoor area; and

6. Homes that provide outdoor space maintain in proper condition all fencing or other natural or man-made barriers or enclosures.

(c) The Office of Licensing shall also require the home or agency to take whatever steps are necessary to correct any conditions in the home that may endanger in any way the health, safety and well-being of the children in placement.

§ 3A:56-4.4 Additional maintenance and sanitation requirements for all homes located in New Jersey

(a) The home shall meet the following lighting requirements:

1. All fluorescent tubes and incandescent light bulbs shall have protective covers or shields.

2. During activities in the home, at least 20 foot-candles of natural or artificial light shall be provided in all rooms used by the children. This illumination shall be measured three feet above the floor at the farthest point from the light source.

3. Parking areas, pedestrian walkways, or other exterior portions of the premises subject to use by home occupants at night shall be illuminated to provide safe entrance to and egress from the home.

(b) The home shall meet the following heating and cooling requirements:

1. A minimum temperature of 65 degrees Fahrenheit and maximum temperature of 80 degrees Fahrenheit shall be maintained in all rooms used by the children.

2. Working fireplaces, steam and hot water pipes, radiators and electric space heaters shall be protected by screens, guards, insulation or any other suitable, non-combustible protective device.

3. The home shall not use portable liquid fuel-burning or wood-burning heating appliances.

(c) The home shall ensure that fireplaces meet the following requirements:

1. The use of a fireplace for the children served by the home shall not pose a serious risk of fire safety to occupants of the home, as determined by the local fire official;

2. The fireplace shall be approved by the local government construction official and fire official, in accordance with applicable provisions of the NJUCC and the NJUFC, respectively;

3. The home shall obtain a copy of these certificates or statements of approval and submit them to the Office of Licensing;

4. The home shall develop guidelines, in conjunction with the local fire official, that ensure proper use of the fireplace, safety procedures, and an action plan to be followed in the event of an emergency;

5. The guidelines noted in (c)4 above shall include, but not be limited to, staff member supervision, storage of wood, storage and safeguarding of matches, instruction in the use of fireplace implements, use of the screen, annual professional cleaning, posting of emergency phone numbers for police and fire departments and hospitals, posting of emergency procedures and exits, and methods and safeguards for extinguishing the fire; and

6. The guidelines noted in (c)4 above shall be maintained on file by the home and reviewed by all staff members and children in the home.

(d) The home shall meet the following ventilation requirements:

1. Crawl spaces, attic spaces, and all doors and windows used for natural ventilation shall have insect screening;

2. All floor or window fans that are accessible to the children shall have a grille, screen, mesh or other protective covering designed to prevent a child from coming into contact with the blades of the fan; and

3. Ventilation outlets shall be cleaned and free from obstructions and filters shall be replaced when saturated.

(e) The home shall ensure that mirrors, dispensers, and other equipment are fastened securely.

(f) Homes that serve children with special needs shall ensure that:

1. For non-ambulatory children, the toilet facilities are located on the same floor where the children's bedrooms and activities are located;

2. The width and height of toilets and sinks accommodate the children served; and

3. Grab bars are provided in toilet and bathroom areas, as specified in N.J.A.C. 5:23-7 of the Barrier-free Subcode of the NJUCC.

(g) The home shall not use lead paint on and shall remove lead paint from any interior or exterior surfaces of a building used as a home, or on any furniture, toys, or other equipment used therein, in accordance with the provisions of the State Lead Paint Law, pursuant to N.J.S.A. 24:14A-1 et seq., and with the provisions of the State Sanitary Code, as specified in N.J.A.C. 8:51-7. When lead paint is found in areas of a home not specified in N.J.A.C. 8:51-7, the Office of Licensing shall determine whether the lead paint is hazardous to the health, safety and well-being of the children served and, if considered to be hazardous, the home shall remove the lead paint hazard.

(h) The home shall not use spray coatings containing asbestos on any interior or exterior surfaces of the home or on any equipment used therein, in accordance with rules of the State Department of Environmental Protection, as specified in N.J.A.C. 7:27-17.2 and with applicable provisions of the Asbestos Hazard Abatement Subcode of the NJUCC, as specified in N.J.A.C. 5:23-8. If the New Jersey Department of Health determines the presence of sprayed-on asbestos-containing materials, and concludes that corrective action must be taken to minimize exposure potential, the home shall follow the recommendation of that Department for enclosure, removal, or other appropriate action to remove the threat or risk of asbestos contamination.

(i) The home shall ensure that swimming pools and natural bathing places used by the children:

1. Comply with applicable provisions of the Public Recreational Bathing Rules, as specified in N.J.A.C. 8:26, and with applicable provisions of the Building Subcode and Barrier-free Subcode of the NJUCC, as specified in N.J.A.C. 5:23; and

2. Provide for supervision of the children, in accordance with applicable provisions of the New Jersey Youth Camp Safety Act rules, as specified in N.J.A.C. 8:25.

(j) The home shall ensure that materials and furniture for indoor and outdoor use are of sturdy and safe construction, easy to clean and free of hazards that may be injurious to children.

(k) The home shall ensure that toilet facilities meet the following requirements:

1. At least one toilet, wash basin and bath tub or shower is provided for every six children in the home. These facilities shall not be located more than one floor from any bedroom; and

2. A supply of hot tap water at a minimum temperature of not less than 120 degrees Fahrenheit and at a maximum temperature of not more than 125 degrees Fahrenheit at all times in accordance with anticipated needs and cold running water is provided.

(l) A home utilizing a kitchen facility or food preparation area shall ensure that the cooking equipment and kitchen facility are kept clean and sanitary and are operated in compliance with applicable provisions of Chapter 12 of the State Sanitary Code, as specified in N.J.A.C. 8:24.

(m) The home shall obtain prior approval from the Office of Licensing for all space used by the children.

(n) The home shall not care for more children than the number specified in the certificate of approval.

(o) The home shall meet the following space requirements to ensure the safety, treatment, recreational, dining, and sleeping needs of the children, including:

1. Adequate space for the implementation of treatment services, including individual, group and family counselling sessions and treatment team meetings;

2. A living room and a recreation room or area that can accommodate indoor individual or group activities, except that treatment homes operated in a private family dwelling are only required to have one such room;

3. A dining area large enough to accommodate tables and chairs for all the children; and

4. Rooms for sleeping:

i. Any bedroom used by a child shall have a minimum ceiling height of seven feet and six inches.

ii. Any bedroom containing a single bed occupied by one child shall provide a minimum of 70 square feet of floor space, including space that is occupied by furniture.

iii. Any bedroom containing two or more single beds and occupied by more than one child shall provide a minimum of 70 square feet of floor space for the first child and 50 square feet of floor space for each additional child, including space that is occupied by furniture.

iv. Any bedroom containing bunk beds or any combination of single beds and bunk beds shall provide 50 square feet of floor space for each child, including space that is occupied by furniture.

§ 3A:56-4.5 Emergency evacuation instructions, medical emergencies, fire prevention, first aid, and equipment

(a) The home shall prepare and post on each floor written emergency evacuation instructions that include:

1. A diagram showing how the home is to be evacuated in the event of an emergency; and

2. The location of fire alarms and fire extinguishers.

(b) The home shall maintain the following information near a staff telephone or other accessible area for use in the event of medical emergency;

1. The name, address and telephone number of the physician retained by the home or of the health facility to be used in emergencies;

2. The location of written authorizations from parents for emergency medical care for each child;

3. The procedure for obtaining emergency transportation;

4. The procedure for obtaining substitute or on-call supervision, if needed;

5. The telephone numbers of the local police, fire department, ambulance service and poison control; and

6. The location of the first aid kit and any additional first aid supplies.

(c) The home shall prepare written fire prevention instructions, which delineate that:

1. The home shall conduct fire drills at least once a month, which shall include all staff members and children, and shall inform all staff members and children of the procedures for leaving the building in an emergency situation. Fire drill evacuations shall:

i. Be conducted on all shifts, to include overnight hours; and

ii. Be completed within three minutes. If evacuations are not regularly completed within three minutes, the home or agency shall contact its local fire official for assistance with improving its evacuation time;

2. The home shall maintain on file a record of each fire drill, which shall include:

i. The date and time of day of the drill;

ii. The weather condition at the time of evacuation;

iii. The number of participating children and staff members;

iv. The total amount of time taken to evacuate the home; and

v. The signature of the staff members conducting the drill;

3. All fire extinguishers shall be serviced and tagged at least once a year and recharged, if necessary; and

4. The home shall ensure that all staff members are trained in the use and operation of fire extinguishers.

(d) The following equipment shall be placed in a location that is convenient and accessible to staff members:

1. A standard first aid kit, which is fully restocked within 24 hours of use; and

2. The American Red Cross First Aid Manual or its equivalent.

(e) The home shall prepare written procedures for ensuring children's safety and immediate communication with parents, the Division, and the Office of Licensing in the event of an extended power outage, evacuation, lockdown, natural or civil disaster, or other emergency. The procedures shall indicate the plan for informing parents, the Division, and the Office of Licensing of each child's whereabouts and informing both the Office of Licensing and the local law enforcement agency or emergency management office of the home's identifying information as specified in (e)4 below.

1. The emergency procedures shall be maintained in the home with its location known and accessible to all staff members.

2. The emergency procedures shall delineate criteria for determining whether to evacuate the home or to shelter in place.

3. The emergency procedures shall identify a prioritized list of three possible locations to evacuate to and how to determine another location should the primary, pre-approved locations be unavailable.

4. The home shall ensure that the Office of Licensing, and when appropriate, the local law enforcement agency or emergency management office is notified of:

i. The home's name and location;

ii. The number, ages, and type(s) of children served;

iii. The number of staff;

iv. The need for emergency transportation;

v. The location to which children and staff will be evacuated;

vi. The plan for a lockdown; and

vii. The plan for reuniting children with their parents or other approved provider or entity, when appropriate.

§ 3A:56-4.6 Prohibition on the use of tobacco products

(a) The home shall prohibit the smoking of tobacco products or the use of smokeless tobacco or electronic smoking devices by children.

(b) The home shall ensure that staff members comply with the provisions of N.J.S.A. 2A:170-51.4, which prohibits any person from directly or indirectly selling, giving, or furnishing to a minor under 21 years of age any cigarettes made of tobacco or any matter or substance that can be smoked, or any cigarette paper or tobacco in any form, including smokeless tobacco and electronic smoking devices.

(c) The home shall maintain a smoke free environment in all buildings on the group home premises and in all vehicles used to transport children.

(d) The home may permit staff members, parents and adult visitors to smoke in a designated area outside the building(s) on the premises of the group home or in vehicles that are not used to transport children.

§ 3A:56-5.1 General requirements for director and all staff members

(a) The director and every staff member shall:

1. Be of good character and reputation;

2. Be in sufficient physical, mental and emotional health to perform his or her job duties satisfactorily; and

3. Possess skills, attributes and characteristics conducive to and suitable for operating a home or dealing with children, as applicable.

(b) Prior to hiring or utilizing a director or a staff member who will be working at the home or agency, the home or agency shall secure and maintain on file:

1. A signed application for employment from each individual, indicating the applicant's name, address and telephone number; education and work experience; and disclosure of the presence or absence of criminal convictions;

2. Two written or two verbal references on each individual. These references shall be secured from former employers or other persons who have knowledge of the individual's work experience or education and who can attest to the individual's suitability to work with children. The verbal references shall be documented in writing by the home or agency;

3. Documentation from the Department showing compliance with a Criminal History Record Information background check, as specified in N.J.A.C. 3A:56-5.6, and a Child Abuse Record Information background check, as specified in N.J.A.C. 3A:56-5.7, for the director and each staff member, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent, and household member at least 18 years old in a treatment home, teaching family home, alternative care home, or supervised transitional living home; and

4. A copy of a home study for each treatment home, teaching family home serving five or fewer children, supervised transitional living home serving five or fewer children and alternative care home operated in private family dwellings by the agency for children supervised by the Department. The home study shall include:

i. A description of the rooms in the home;

ii. A description of the child's bedroom;

iii. A description of the neighborhood;

iv. The names of the persons residing in the home, including biological children, other children placed by the Department, boarders and frequent overnight guests;

v. References as specified in (b)2 above, on all persons identified in (b)3iv above;

vi. A written health statement on all persons identified in (b)4iv above;

vii. A statement from the agency that verifies that the supply of hot tap water has been tested and is between 120 and 125 degrees Fahrenheit;

viii. Indication when a couple lives together, that both partners are considered home parents and shall be in compliance with this chapter;

ix. For treatment homes operated in private dwellings, indication that the treatment home parent(s) has sufficient income or other means of financial support prior to the placement of a child; and

x. Updated information if any of the information in (b)4i, ii, or iv above changes.

(c) Failure by any agency, director or other staff member to comply with the requirements as specified in (a) and (b) above, and/or any evidence demonstrating unfitness or unsuitability to fulfill the responsibilities and duties of his or her position or to serve or deal with children in an appropriate manner, shall constitute grounds for one or more of the following actions:

1. Removal of the director or staff member from his or her position;

2. Reassignment to other duties that do not involve contact with children; or

3. Termination from the home.

(d) The home shall disclose to the Office of Licensing, in writing, information about and circumstances surrounding any previous denial, suspension, revocation or refusal to renew a certificate of approval or a license to operate a home either by the Office or by the licensing agency of another state. Evidence of a previous denial, suspension, revocation or refusal to renew a certificate of approval or license, shall not in and of itself result in an automatic disqualification of the prospective agency or home to secure a certificate of approval for another or the same home, but shall constitute grounds for the Office to investigate the circumstances that led to the original negative action and make a determination as to whether to reject or process the new application for a certificate of approval.

(e) Requirements to prevent and report child abuse or neglect are as follows:

1. The director or any staff member shall verbally notify the Department's State Central Registry at 1-877-NJ-ABUSE (1-877-652-2873) immediately whenever there is reasonable cause to believe that a child has been subjected to abuse or neglect by a staff member, or any other person, pursuant to the Child Abuse and Neglect Law (see N.J.S.A. 9:6-8.9, 8.10, 8.13, and 8.14). This provision shall also apply to homes located outside of New Jersey, notwithstanding the child abuse and neglect provisions of the State in which the home is located.

2. In addition to the reporting requirements in (e)1 above, the home shall report any suspected abuse or neglect of the child by his or her parents or other family members to the Division worker assigned to the family.

3. In addition to the reporting requirements specified in (e)1 above, the home shall notify the Division worker and parents of any unusual incidents that occurred at the home and that might indicate possible abuse or neglect involving the child. Such notification shall be made on the same day on which the incident occurred. Such incidents may include, but are not limited to: acts of aggression, violent or destructive behavior, suicidal threats or behavior, homicidal threats, inappropriate sexual behavior, running away, withdrawal or passivity, drug or alcohol abuse, or significant changes in the child's behavior or habits. The home shall maintain on file a record of such incidents and documentation that parents and Division workers have been informed of them.

4. The Department, during the course of investigating an allegation of child abuse and neglect, may determine that immediate, corrective action is necessary to protect the children whenever:

i. The director or staff member has been found by the Department's Institutional Abuse Investigation Unit (IAIU) to pose a risk of harm to children; or

ii. The director or staff member has committed an act of child abuse or neglect, as substantiated by the IAIU; or

iii. The director or staff member has been convicted of such acts.

5. Whenever the IAIU makes such a determination, the agency or director shall carry out the Department's recommendation for immediate remedial action and long-term corrective action. Such remedial action may include, but not be limited to:

i. Removal or suspension of the affected director or staff members from the home or reassignment to other duties that do not involve contact with the children; or

ii. When the director or staff member resides at the home, removal of the affected employee from the premises.

6. Such suspension, removal or reassignment, as specified in (e)5 above, shall remain in effect until the results of the Department's investigation have been determined, and a final decision in the matter has been rendered by the Office of Licensing.

7. If an allegation of child abuse or neglect is substantiated against an individual working or residing at the home or agency, the home or agency shall immediately terminate the individual's employment at the home or agency. If the individual is a director, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent, or household member, the Department shall also deny, suspend, revoke or refuse to renew the certificate of approval, as applicable.

i. The home or agency may appeal the denial, suspension, revocation or refusal to renew to the Department, as specified in N.J.A.C. 3A:56-2.4.

ii. The treatment home parent, teaching family home parent, alternative care home parent or supervised transitional living home parent may choose to remove the household member against whom child abuse or neglect is substantiated from the home before the action against the certificate takes effect.

(f) The home or agency shall utilize medical, dental, and psychological personnel serving children on either a staff or community provider basis who shall:

1. Be responsible for ensuring that the needs of the children for medical, dental, and psychological services are met; and

2. Be licensed to practice in the state where the staff member or community provider is located, if required by the laws of that state.

§ 3A:56-5.2 Staff qualifications

(a) Group homes, supervised transitional living homes and treatment homes shall have a full-time agency administrator or home director, social service workers and house parents or child care staff members, who shall meet the requirements in (d) through (f) below.

(b) Teaching family home and alternative care home programs shall have a full-time program administrator, teaching family consultants and teaching family parents, who shall meet the requirements in (h) through (k) below.

(c) Psychiatric community homes for children shall have the following staff persons:

1. A full-time program director who shall meet the qualifications specified in (d)2ii below;

2. A full-time clinical social worker-therapist who shall have, at minimum:

i. A master's degree in social work, psychology, counseling, family therapy or other related field; and

ii. One year experience in the provision of child mental health services;

3. A nurse-health educator who possesses a current New Jersey registered nursing license and one year direct care nursing experience with children. The responsibilities of the nurse-health educator shall include, but need not be limited to, the following:

i. Assess the physical condition of the children in the program under the direction of the medical director or psychiatrist and integrate findings into the child's treatment plan;

ii. Provide education and support to direct care staff on the administering of medications and possible side effects, under the direction of the medical director or other physician;

iii. Implement the quality assurance program;

iv. Provide injections of medication, as needed and directed by the medical director or other physician; and

v. Conduct individual and group guidance for clients and staff on health-related issues;

4. A psychiatrist who shall possess a valid New Jersey license to practice medicine and five years of clinical practice in psychiatry. The responsibilities of the psychiatrist shall include, but need not be limited to, the following:

i. Serving as the medical director, as assigned;

ii. Supervising the nurse-health educator;

iii. Developing and monitoring the implementation of the agency's medical policies and procedures;

iv. Providing related in-service training to staff;

v. Providing direct client services, such as diagnosis, evaluation, medication management, crisis intervention, and therapy, when appropriate. However, the child's treatment may be under the supervision of an advanced practice nurse (APN) as specified in N.J.S.A. 45:11-

45 et seq., certified in the category of psychiatric/mental health and as supported by a collaborative agreement with the facility psychiatrist and joint protocol document as specified in N.J.A.C. 13:37-8.1; and

vi. Maintaining medical and legal responsibility for the overall treatment provided to the residence's clients; and

5. Child care staff who shall meet the qualifications specified in (f) below.

(d) The full-time agency administrator or home director shall:

1. Be at least 21 years of age;

2. Have one of the following qualifications:

i. A bachelor's degree in social work, psychology or a related field from an accredited college or university and four years of professional experience in the human services field, two of which shall have been in a supervisory or administrative position;

ii. A master's degree from an accredited graduate school in social work, psychology, or a related field and three years of professional experience in the human services field;

iii. For publicly operated homes, meet the requirements of the State Department of Personnel for the position, if applicable;

iv. Meet the requirements for a licensed clinical social worker or a licensed social worker as specified in N.J.A.C. 13:44G-4.1 and 4.2 and have three years of professional experience in the human services field; or

v. Meet the requirements for a certified social worker as specified in N.J.A.C. 13:44G-4.3, have a bachelor's degree in social work, psychology or related field from an accredited college or university and have three years of professional experience in the human services field, one of which shall have been in a supervisory or administrative position.

3. Be responsible for implementing the overall planning, operation, and management of the home, including the home's recreational and food programs;

4. Designate staff members to be in charge at all times during his or her absence;

5. Be on call to assist the staff in admissions, emergencies, and personnel or other responsibilities;

6. Be responsible for maintaining aggregate statistical information on children served, including the date of each admission, date of each discharge, and reason for each discharge; and

7. If qualified under (d)2i, ii or v above, not supervise a licensed clinical social worker, licensed social worker or certified social worker.

(e) A social worker or staff member who provides social services shall:

1. Be at least 21 years of age;

2. Provide at least two hours of service per week to each child, including, but not limited to, casework services, intake, treatment planning, family contacts, group work services, and maintenance of each child's record; and

3. Have one of the following qualifications:

i. Meet the requirements for a licensed clinical social worker, licensed social worker or certified social worker as specified in N.J.A.C. 13:44G-4.1 and 4.2 and have a minimum of one year professional experience in the human services field;

ii. A bachelor's degree in social work, psychology or a related field from an accredited college or university and one year of professional experience in the human services field, and meet one of the exemptions from social work certification or licensure as specified in N.J.S.A. 45:15BB-5. Staff members who do not meet the qualifications in (e)3i above and provide services as specified in (e)2 above, shall:

a) Only provide social work services in the course of employment with the home;

b) Not provide psychotherapeutic counseling to residents;

c) Not advertise or represent themselves as a licensed clinical social worker, licensed social worker or certified social worker; and

d) Not use any title or name, the use of which is restricted by N.J.S.A. 45:15BB-4 of the Social Worker's Licensing Act; or

iii. A master's degree from an accredited graduate school in social work, psychology or a related field, and meet one of the exemptions from social work certification or licensure as specified in N.J.S.A. 45:15BB-5. Staff members who do not meet the qualifications in (e)3i above and provide services as specified in (e)2 above, shall:

a) Only provide psychotherapeutic counseling under the supervision of a licensed clinical social worker or other State-licensed mental health professional;

b) Not advertise or represent themselves as a licensed clinical social worker, licensed social worker or certified social worker; and

c) Not use any title or name, the use of which is restricted by N.J.S.A. 45:15BB-4 of the Social Worker's Licensing Act; or

iv. Meet the requirements of the State Department of Personnel for the position, if applicable.

(f) The house parents or child care staff members shall:

1. Be at least 21 years of age;

2. Provide daily care and supervision of the children;

3. Inform the social service staff members or director of any incidents that may impact on the child's treatment planning, as specified in N.J.A.C. 3A:56-6.1, 6.2 and 6.3; and

4. Have one of the following qualifications:

i. A high school or high school equivalency diploma and one year of experience working with children in a group setting;

ii. An associate's or bachelor's degree from an accredited college or university in a field that is unrelated to social work or psychology and six months experience working with children in a group setting;

iii. An associate's or bachelor's degree from an accredited college or university in social work, psychology or a related field; or

iv. Meet the requirements of the State Department of Personnel for the position, if applicable.

(g) Group homes, treatment homes, psychiatric community homes for children, and supervised transitional living homes may hire persons who do not meet the qualifications specified in (f)4 above, but who offer a background or life experience that demonstrate characteristics, skills, and attributes that would enable them to work with children in a positive manner. The home or agency shall develop and maintain on file a policy that delineates the criteria for hiring staff members who do not meet the qualifications specified in (f)4 above. Such criteria shall include, but not be limited to, the following:

1. The person shall have life experiences that deal with raising a child, providing foster care, participating in volunteer activities with a child or adopting a child;

2. The person shall exhibit characteristics, skills and attributes that would enable him or her to work effectively and sensitively with emotionally disturbed or handicapped children in a group setting; and

3. The person, after he or she is hired, shall work together with an experienced staff member for an initial probationary period of at least six months unless terminated for cause prior to completing the six-month probationary period. After this initial six month period has ended, the home or agency shall review the person's work performance, document his or her ability to continue work without being supervised by an experienced staff member and may either:

i. Appoint the probationary staff member to fill the position as a child care staff member;

ii. Extend the initial six-month period to further evaluate the performance of the probationary staff member and continue to have the probationary staff member supervised by an experienced staff member; or

iii. Terminate the probationary staff member after the initial six-month period or any extension of the initial six-month period for failing to perform the job duties and responsibilities of the position.

(h) The teaching family home or alternative care home program administrator shall:

1. Meet the qualifications specified in (d)1 and 2 above;

2. Provide the Office of Licensing with current listings of teaching family consultants and the homes to which they are assigned;

3. Ensure that the teaching family or alternative care homes comply with all applicable provisions of this manual;

4. Designate a staff member to be in charge at all times during his or her absence;

5. Be on call to assist the teaching family consultants in admissions, emergencies and personnel or other problems;

6. Be responsible for ensuring that all teaching family consultants receive an annual performance evaluation; and

7. Assist in the recruitment and training of teaching family parents.

(i) The teaching family consultants shall:

1. Be at least 21 years of age;

2. Meet the requirements of the State Department of Personnel for the position; and

3. Be responsible for ensuring that the teaching family parents perform the duties specified in (j) below.

(j) The teaching family parents and relief staff shall:

1. Be at least 21 years of age;

2. Implement the overall planning, operation and management of the home;

3. Maintain all staff members' work schedules, time sheets, and/or payment vouchers for relief staff;

4. Maintain a daily log book, separate log book or record in the child's case record of all visits to children;

5. Complete entries in the daily log book that reflect the activities and events of each day;

6. Maintain aggregate statistical information on children served, including the date of each admission, date of each discharge, and reason for each discharge; and

7. Meet all the requirements specified in (f) above.

(k) Teaching family home staff members shall meet staff training and certification requirements of the National Teaching Family Association.

§ 3A:56-5.3 Staff-to-child ratios

(a) Group homes and supervised transitional living homes, except psychiatric community homes for children as specified in (c) below, shall meet the following staff-to-child ratios:

1. The home shall have at least one staff member present in the home or reachable by telephone when the home is in operation but the children are not in the home on a particular day.

2. The home shall have at least one staff member for every six or fewer children when the children are awake and present in the home and when the children are participating in an activity organized by the home.

3. The home shall have at least one staff member on duty when there are 12 or fewer children in the home and the children are asleep.

i. In a single-sex home, the staff member may be asleep.

ii. In a coed home, the staff member shall be awake.

iii. An additional staff member shall be available to provide emergency in-person coverage within 30 minutes.

(b) Teaching family homes, alternative care homes, supervised transitional living homes serving five or fewer children, and treatment homes shall have:

1. One staff member on duty whenever a child is scheduled to be present in the home;

2. One staff member as identified in (b)1 above who is accessible by telephone or beeper at all times when the home is in operation and the children are not present; and

3. One staff member who can provide emergency in-person coverage within 30 minutes.

(c) Psychiatric community homes for children shall meet the following staff-to-child ratios:

1. The home shall have at least one staff member present in the home or immediately reachable by telephone when the home is in operation but children are not present on a particular day;

2. The home shall have at least one staff member present for every three or fewer children when the children are awake and present in the residence; and

3. The home shall have at least two staff members on duty during normal sleeping hours, one of whom shall be awake. An additional staff member shall be available to provide emergency in-person coverage within 30 minutes.

(d) As an exception to (b) above, teaching family homes, supervised transitional living homes, and treatment homes may permit a child to remain in the home when the home is in operation without a staff member present only when the following conditions have been met:

1. The child is at least 14 years of age;

2. The child does not have the responsibility to supervise other children in the home or is not supervised by other children in the home;

3. The treatment team, as specified at N.J.A.C. 3A:56-6.1(b), documents in the child's treatment plan that the child has acquired the necessary skills that would enable the child to be in the home without a staff member present, including:

i. The ability to contact the police, ambulance or fire department in the event of an emergency;

ii. The ability to safely self-evacuate the home if there is a fire, gas leak or other potentially dangerous situation;

iii. The knowledge that strangers and visitors are not permitted in the home without the prior approval of the staff member; and

iv. If an adolescent mother with an infant, the ability to provide care and supervision of her child;

4. The treatment team, as specified at N.J.A.C. 3A:56-6.1(b), documents in the child's treatment plan that the child has achieved treatment goals that would enable the child to be in the home without a staff member present. Such treatment goals may include, but are not limited to:

i. Regular attendance in school, vocational program or work;

ii. Consistent participation in counseling, based on the child's treatment plan, if applicable; and

iii. Demonstration by the child that he or she has not been involved in incidents of aggressive/assaultive behavior, damage or destruction of property, inappropriate sexual behavior or other behavioral or emotional episodes that would indicate that the child could be a potential risk to self or others;

5. The child does not require medication and/or psychotropic medication to be administered during the time that he or she is in the home unsupervised; and

6. The staff member does not permit the child to remain in the home unsupervised:

i. Because of his or her employment commitments;

ii. For overnight stays as a part of a vacation or outing; or

iii. For periods of time that exceed four consecutive hours; and

7. A staff member is accessible by telephone or beeper at all times and can provide in-person coverage within 30 minutes.

(e) Teaching family homes, supervised transitional living homes, and treatment homes may permit a child unsupervised time in the community when the following conditions have been met:

1. The child is at least 14 years of age;

2. The child does not have the responsibility to supervise other adolescents during the outing or is not supervised by other adolescents during the outing;

3. The treatment team, as specified at N.J.A.C. 3A:56-6.1(b), documents in the child's treatment plan that the child has acquired the necessary skills that would enable the child to be in the community without a staff member present, including:

i. Knowledge of the name, address, and phone number to the home;

ii. The knowledge of how to respond in case of emergency, including the ability to contact the home, if needed;

iii. The knowledge of personal safety techniques, such as awareness of surroundings and not accepting or asking for transportation from others in the community outside of an approved plan;

iv. The knowledge that the approved destinations, activities, timeframes, and methods of travel must be adhered to; and

v. If an adolescent mother with an infant, the ability to provide care and supervision of her child;

4. The treatment team, as specified at N.J.A.C. 3A:56-6.1(b), documents in the child's treatment plan that the child has achieved treatment goals that would enable the child to be in the community without a staff member present. Such treatment goals may include, but are not limited to:

i. Regular attendance in school, vocational program, or work;

ii. Consistent participation in counseling, based on the child's treatment plan, if applicable; and

iii. Demonstration by the child that he or she has not been involved in incidents of aggressive/assaultive behavior, damage or destruction of property, inappropriate sexual behavior, or other behavioral or emotional episodes that would indicate that the child could be a potential risk to self or others;

5. The child does not require medication or psychotropic medication to be administered during the time that he or she is in the community unsupervised; and

6. The staff member does not direct or allow the child to be in the community unsupervised:

i. To temporarily empty the home because of his or her employment or other commitments;

ii. Without a documented and approved itinerary; or

iii. For unreasonable periods of time or at unreasonable times of the night;

7. A staff member is available to retrieve the child without prior notice should an emergency arise; and

8. The agency or home monitors whether or not the child is appropriately using unsupervised time in the community and responds accordingly.

§ 3A:56-5.4 Staff training and development

(a) The home shall develop a training plan and the director shall ensure that all staff members, upon employment, are trained in:

1. The home's statement of purpose, as specified in N.J.A.C. 3A:56-3.1;

2. The home's behavior management policy and search and seizure policy, if any, as specified in N.J.A.C. 3A:56-6.14 and 6.15;

3. Emergency procedures, as specified in N.J.A.C. 3A:56-4.5(a), (b) and (c);

4. Protocols for medication, as specified in N.J.A.C. 3A:56-7.4 and 7.5;

5. Infection control procedures, as specified in N.J.A.C. 3A:56-7.8;

6. The home's techniques for safe physical restraint, if applicable, as specified in N.J.A.C. 3A:56-6.13(e)6;

7. Cultural sensitivity and diversity;

8. Characteristics and needs of any specialized population served;

9. Appropriate methods of verbal and physical interactions with children, including recognizing and establishing boundaries; and

10. Recognizing and managing job-related stress, before, during, and after a behavioral crisis.

(b) The home shall ensure that every new staff member is accompanied on his or her duties by an experienced staff member as part of an orientation, until the new staff member is familiar with daily routines and operations of the home.

(c) The home shall document in each staff member's record that all social service and child care staff members, including full and part-time staff members, receive a minimum of 12 hours of training each year in the following areas:

1. The principles of behavior management and understanding the impact of trauma, including crisis intervention and clinical treatment of behavioral disorders for children;

2. Alcohol and substance abuse;

3. Child and adolescent development, human sexuality, and AIDS;

4. Suicide prevention;

5. Infection control and medication; and

6. Preventing, recognizing, and reporting child abuse and neglect, to include physical, sexual, and emotional child abuse and neglect, and human trafficking.

(d) The home or agency, excluding treatment homes operated in private dwellings without an on-grounds swimming pool or other body of water, shall maintain documentation in each staff member's record, that all social service and child care staff members, including full-and part-time staff, possess current certification in cardio-pulmonary resuscitation and first aid for children.

(e) The home's training plan may include in-depth discussions at staff meetings or attendance at workshops or conferences.

§ 3A:56-5.5 Volunteers and student interns

(a) The home may use volunteers or student interns to support the activities of regular paid staff members, but shall not use volunteers or student interns to substitute for paid staff members.

(b) The home shall ensure that volunteers and student interns are briefed fully on any special needs or problems they might encounter while working with the children.

(c) The home shall ensure that volunteers and student interns who have contact with children or parents receive an orientation to the home's program and are supervised by paid staff members. Volunteers and student interns shall receive authorization from the home prior to accompanying children off-grounds for trips, medical appointments and visits.

(d) The home or agency shall require references, as specified in N.J.A.C. 3A:56-5.1(b)2, for volunteers and student interns who provide activities or transportation to a child by themselves.

(e) The home or agency shall secure and maintain on file documentation from the Department showing compliance with a Criminal History Record Information background check and a Child Abuse Record Information background check, as specified in N.J.A.C. 3A:56-5.1(b)3, for each volunteer and student intern.

§ 3A:56-5.6 Criminal History Record Information background checks

(a) As a condition of securing and maintaining a certificate, the home or agency shall ensure that a State and Federal Criminal History Record Information (CHRI) fingerprint background check, in keeping with P.L. 2003, c.186, is completed for the director and each staff member, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent, and household member at least 18 years old in a treatment home, teaching family home, alternative care home or supervised transitional living home.

(b) If the director, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent, or household member refuses to consent to or cooperate in a CHRI background check, the Department shall deny, suspend, revoke or refuse to renew the certificate, as applicable.

1. The home or agency may appeal the denial, suspension, revocation or refusal to renew, as specified in N.J.A.C. 3A:56-2.4.

2. The treatment home parent, teaching family home parent, alternative care home parent, or supervised transitional living home parent may choose to remove the household member so refusing from the home before the action against the certificate takes effect.

(c) If a staff member refuses to consent to or cooperate in a CHRI background check, the home or agency shall immediately terminate the staff member's employment at the home or agency.

(d) If any person identified in (a) above has a record of criminal conviction, the Department of Children and Families shall review the record with respect to the type and date of the criminal offense and make a determination as to the suitability of the person to receive a certificate or to administer, work at or reside in the home or agency.

(e) A person shall be disqualified from receiving a certificate or administering, working at or residing in a home or agency if that person ever committed a crime which resulted in a conviction for:

1. A crime against a child, including endangering the welfare of a child and child pornography pursuant to N.J.S.A. 2C:24-4, or child molestation as set forth in N.J.S.A. 2C:14-1 et seq.;

2. Abuse, abandonment or neglect of a child pursuant to N.J.S.A. 9:6-3;

3. Endangering the welfare of an incompetent person pursuant to N.J.S.A. 2C:24-7;

4. Sexual assault, criminal sexual contact or lewdness pursuant to N.J.S.A. 2C:14-2 through 2C:14-4;

5. Murder pursuant to N.J.S.A. 2C:11-3 or manslaughter pursuant to N.J.S.A. 2C:11-4;

6. Stalking pursuant to section 1 of P.L. 1992, c.209 (N.J.S.A. 2C:12-10);

7. Kidnapping and related offenses including criminal restraint, false imprisonment, interference with custody, criminal coercion, or enticing a child into a motor vehicle, structure, or isolated area pursuant to N.J.S.A. 2C:13-1 through 2C:13-5 and section 1 of P.L. 1993, c.291 (N.J.S.A. 2C:13-6);

8. Arson pursuant to N.J.S.A. 2C:17-1, or causing or risking widespread injury or damage, which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:17-2;

9. Aggravated assault, which would constitute a crime of the second or third degree pursuant to subsection b of N.J.S.A. 2C:12-1;

10. Robbery, which would constitute a crime of the first degree pursuant to N.J.S.A. 2C:15-1;

11. Burglary, which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:18-2;

12. Domestic violence pursuant to P.L. 1991, c.261 (N.J.S.A. 2C:25-17 et seq.);

13. Terroristic threats pursuant to N.J.S.A. 2C:12-3;

14. An attempt or conspiracy to commit any of the crimes or offenses listed in (e)1 through 13 above; or

15. In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or offenses described in (e)1 through 14 above.

(f) As an exception to (e) above, the Department may approve the employment at, or administration of, a home or agency by an individual convicted of a crime specified in (e) above if all of the following conditions are met:

1. The Department determines that the crime does not relate adversely to the position the individual is employed in pursuant to the provisions of P.L. 1968, c.282 (N.J.S.A. 2A:168A-1 et seq.);

2. The conviction is not related to a crime committed against a child, as specified in (e) above;

3. The home or agency documents that the individual's employment or administration of the home or agency does not create a risk to the safety or well-being of children due to the nature and requirements of the position. As necessary, the home or agency shall identify restrictions regarding the individual's contact with, care or supervision of children;

4. The home or agency documents that the individual is uniquely qualified for the position due to specific skills, qualifications, characteristics or prior employment experiences; and

5. The Department determines that the individual has affirmatively demonstrated rehabilitation, pursuant to the factors specified in (g) below.

(g) For crimes and offenses other than those cited in (e) above, an individual may be eligible to receive a certificate or to administer, work at or reside in a home or agency if the individual has affirmatively demonstrated to the Department clear and convincing evidence of rehabilitation.

1. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

i. The nature and responsibility of the position at the facility that the convicted individual would hold, has held or currently holds, as the case may be;

ii. The nature and seriousness of the offense;

iii. The circumstances under which the offense occurred;

iv. The date of the offense;

v. The age of the individual when the offense was committed;

vi. Whether the offense was an isolated or repeated incident;

vii. Any social conditions that may have contributed to the offense; and

viii. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the individual under their supervision.

2. Upon receipt of documentation submitted by the home or agency, indicating why the individual at issue should not be precluded from administering, working or residing at the home or agency, the Department, after assessing the facts on a case-by-case basis, shall make the final determination regarding the individual's rehabilitation, in keeping with the provisions of the State Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq.

3. The Department shall make the final determination regarding the suitability of the director of a home or agency with a criminal conviction other than those cited in (e) above.

4. For a current or prospective staff member, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent or household member with a criminal conviction other than those cited in (e) above, the director of the home or agency or the agency's board of directors shall make a determination regarding the individual's suitability upon the Department's determination that the individual has affirmatively demonstrated rehabilitation.

(h) If the director of a home or agency has knowledge that any individual specified in (a) above has criminal charges pending against the individual, the director shall promptly notify the Department to determine whether or not any action concerning the individual is necessary in order to ensure the safety of the children who are placed in the home.

(i) If the Department is notified that any individual specified in (a) above is convicted of a crime or offense after the CHRI has been completed, the Department shall make a determination whether to suspend or revoke the certificate or require the home or agency to terminate the individual's employment or service, as applicable.

(j) Upon completion of the CHRI for an individual specified in (a) above, the Department shall notify the individual, and the home or agency as applicable, in writing, of the individual's qualification or disqualification for employment or service under section 4 or 5 of P.L. 2003, c. 186 (N.J.S.A. 30:4C-27.19 or 30:4C-27.20).

1. If the individual is disqualified, the convictions that constitute the basis for the disqualification shall be identified in the written notice to the individual, as allowed by law.

2. The individual shall have 14 days from the date of the written notice of disqualification to challenge the accuracy of the CHRI.

3. If no challenge is filed or if the determination of the accuracy of the CHRI upholds the disqualification, the Department shall notify the home or agency that the individual has been disqualified.

4. The home or agency shall immediately terminate the disqualified individual's employment at the home or agency.

5. If the disqualified individual is a home or agency director, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent or household member, the Department shall deny, suspend, revoke or refuse to renew the certificate, as applicable.

6. The treatment home parent, teaching family home parent, alternative care home parent, or supervised transitional living home parent may choose to remove the disqualified household member from the home before the action against the certificate takes effect.

(k) A home or agency that has received an employment application from an individual, or currently employs a director or staff member, shall be immune from liability for acting upon or disclosing information about the disqualification or termination of that individual to another home or agency seeking to employ that individual, if the home or agency has:

1. Received notice from the Department or the agency's board of directors, as applicable, that the applicant, director or staff member has been determined by the Department or the board of directors to be disqualified from employment or service at a home or agency pursuant to P.L. 1968, c.282 (N.J.S.A. 2A:168A-1 et seq.); or

2. Terminated the employment of a staff member because the individual was disqualified from employment or service at the home or agency on the basis of a conviction of a crime pursuant to P.L. 1968, c.282 (N.J.S.A. 2A:168A-1 et seq.) after commencing employment or service at the home or agency.

(l) A home or agency that acts upon or discloses information pursuant to (k) above shall be presumed to be acting in good faith unless it is shown by clear and convincing evidence that the home or agency acted with actual malice toward the individual who is the subject of the information.

§ 3A:56-5.7 Child Abuse Record Information background checks

(a) As a condition of securing and maintaining a certificate, the home or agency shall provide written consent to the Department from the director and each staff member, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent, and household member at least 18 years old in a treatment home, teaching family home, alternative care home or supervised transitional living home, for a Child Abuse Record Information (CARI) background check to be conducted.

(b) If a director, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent, or household member refuses to consent to or cooperate in a CARI background check, the Department shall deny, suspend, revoke or refuse to renew the certificate, as applicable.

1. The home or agency may appeal the denial, suspension, revocation or refusal to renew, as specified in N.J.A.C. 3A:56-2.4.

2. The treatment home parent, teaching family home parent, alternative care home parent or supervised transitional living home parent may choose to remove the household member so refusing from the home before the action against the certificate takes effect.

(c) If a staff member refuses to consent to or cooperate in a CARI background check, the home or agency shall immediately terminate the staff member's employment at the home or agency.

(d) Upon receipt of written consent from an individual specified in (a) above, the Department shall conduct a search of its records to determine if an allegation of child abuse or neglect has been substantiated, pursuant to section 4 of P.L. 1971, c. 437 (N.J.S.A. 9:6-8.11), against the individual.

1. The Department shall consider incidents of child abuse and neglect that were substantiated on or after June 29, 1995, to ensure that the perpetrator has had an opportunity to appeal a substantiated finding of child abuse or neglect.

2. The Department may consider incidents substantiated prior to June 29, 1995, if the Department, in its judgment, determines that the perpetrator poses a risk of harm to children in a home. In cases involving incidents substantiated prior to June 29, 1995, in which the Department determines that the individual is disqualified, the Department shall offer the perpetrator an opportunity for a hearing to contest the substantiation, if no hearing occurred previously.

(e) If the Department determines that an allegation of child abuse or neglect has been substantiated against an individual specified in (a) above, the home or agency shall immediately terminate the individual's employment at the home or agency.

(f) If the Department determines that an allegation of child abuse or neglect has been substantiated against a director, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent, or household member, the Department shall also deny, suspend, revoke or refuse to renew the certificate of approval, as applicable.

1. The home or agency may appeal the denial, suspension, revocation or refusal to renew, as specified in N.J.A.C. 3A:56-2.4.

2. The treatment home parent, teaching family home parent, alternative care home parent or supervised transitional living home parent may choose to remove the disqualified household member from the home before the action against the certificate takes effect.

3. If the incident was substantiated prior to June 29, 1995, the Department shall notify the individual in writing that the individual may request a hearing to contest the substantiation.

(g) If the Department determines that an allegation of child abuse or neglect has been substantiated against a staff member, the home or agency shall notify the staff member in writing that the termination of employment is based on a substantiated allegation of child abuse or neglect. If the incident was substantiated prior to June 29, 1995, the home or agency shall notify the staff member in writing that the staff member may request a hearing to contest the substantiation.

(h) Subsequently, if an allegation of child abuse or neglect is substantiated against a staff member during employment, the agency or home may continue the employment of the individual should there be an appeal of the abuse or neglect finding; however, the individual shall not be left alone as the only adult caring for a child at the home while the appeal is pending.

§ 3A:56-5.8 Background check procedures for New Jersey homes and agencies

(a) Prior to the opening of a new home or agency located in New Jersey, the home or agency shall ensure that a request for a Criminal History Record Information (CHRI) background check, as specified in N.J.A.C. 3A:56-5.6, and a Child Abuse Record Information (CARI) background check, as specified in N.J.A.C. 3A:56-5.7, is submitted for each person identified in N.J.A.C. 3A:56-5.6(a) and 5.7(a).

(b) At least 60 days before, but no more than 90 days prior to, each renewal of a certificate on or after March 26, 2004, for an existing home or agency located in New Jersey, the home or agency shall ensure that a request for a CARI background check, as specified in N.J.A.C. 3A:56-5.7, is submitted for the director and each staff member, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent, and household member at least 18 years old.

(c) Within two weeks after a new staff member begins employment at a home or agency or a new household member begins residing at a home located in New Jersey, the home or agency shall ensure that a request for a CHRI background check, as specified in N.J.A.C. 3A:56-5.6, and a CARI background check, as specified in N.J.A.C. 3A:56-5.7, is submitted for the individual.

(d) An individual shall not be left alone as the only adult caring for a child at the home until documentation from the Department showing compliance with a CHRI check and CARI check for the individual has been received by the home or agency.

§ 3A:56-5.9 Background check procedures for out-of-State homes and agencies

(a) For a home or agency located outside New Jersey, the home or agency shall ensure that the director and each applicant or staff member meet all applicable laws and regulations in that state governing criminal history record background checks and child abuse record information checks that may be required as a condition of employment.

(b) In the event that criminal history record background checks and child abuse record information checks are not mandated in that state, the home or agency shall require that the director and each applicant, staff member, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent, and household member at least 18 years old make a disclosure of any criminal conviction. The results of the disclosure shall be made available to the Department, so that the Department can determine the suitability of the individual for employment or service at the home or agency during the time children who are residents of New Jersey are placed in the home.

§ 3A:56-6.1 Treatment plan for children in group homes, psychiatric community homes for children, teaching family homes, treatment homes, and alternative care homes

(a) Group homes, psychiatric community homes for children, teaching family homes, alternative care homes, and treatment homes shall develop, implement and maintain on file a written individual treatment plan for each child. The plan shall delineate how to meet that child's needs and to remediate the problems and behavior that led to the child's placement.

(b) Group homes, psychiatric community homes for children, teaching family homes, alternative care homes, and treatment homes shall form a treatment team that is responsible for the development of a treatment plan for each child. The treatment team shall consist of each of the following:

1. For group homes, psychiatric community homes for children and treatment homes:

    i. Staff members representing the clinical component;

    ii. Staff members representing the social work component;

    iii. Staff members representing the child care component;

    iv. Staff members representing the administration of the home, if necessary;

    v. Representatives from the child's responsible school district and/or current school district, if necessary;

    vi. The Division's worker or other placing agency;

    vii. The child's parents, if appropriate; and

    viii. The child, for the purpose of providing input.

2. For teaching family homes:

    i. Staff members representing the clinical component, if applicable;

    ii. Teaching parents and any alternate teaching family staff members;

    iii. The teaching family consultant who shall attend the initial treatment planning meeting and shall attend at least one subsequent meeting every year;

    iv. Representatives from the child's responsible school district and/or current school district, if necessary;

    v. The Division's worker or other placing agency; and

    vi. The child's parents, if appropriate.

(c) Group homes, psychiatric community homes for children, teaching family homes, alternative care homes, and treatment homes shall document in the child's record that the Division's worker or other placing agency, the child's therapist, parents or legal guardian and the child's responsible and/or current school district, if appropriate, were invited to participate as members of the treatment team and assist in the development of the treatment plan and all subsequent revisions.

(d) Group homes, teaching family homes, alternative care homes, and treatment homes shall develop the initial treatment plan within 30 calendar days following a child's admission, implement the treatment plan for three months and review or revise the treatment plan at least every three months thereafter.

(e) Psychiatric community homes for children shall develop and implement the treatment plan within 10 working days following a child's admission and review or revise the treatment plan at least every month thereafter.

(f) The treatment plan shall include the following information:

1. The name of the child;

2. The date of the child's admission;

3. Updated medical and dental examinations, as specified in N.J.A.C. 3A:56-7.2;

4. The date when the plan is developed or revised;

5. The names and titles of all persons having input and/or attending the development or review meeting;

6. The child's social, familial, emotional, medical, behavioral, and academic strengths and weaknesses;

7. Family or friends' visiting schedule and level of compliance or reasons for not scheduling visits;

8. Specific treatment goals in each program area and projected time frame for completing each goal;

9. Persons responsible for the implementation of techniques to be used to achieve treatment goals and objectives;

10. Techniques to be used to achieve each treatment goal;

11. Criteria to be used to determine whether each treatment goal is achieved;

12. A notation of progress made from the previous plan and any identified obstacles to goal achievement;

13. Documentation of efforts to achieve timely discharge and ongoing discharge planning, including, but not limited to, outcome criteria required for discharge and services needed by parents or other persons to whom the child will be discharged; and

14. For children who are 14 years of age and over, how the child is being prepared for self-sufficiency. This documentation shall include, but not be limited to, instruction in:

i. Food preparation;

ii. Budgeting and money management; and

iii. Vocational planning and, if applicable, employment search efforts.

15. Documentation, as specified at N.J.A.C. 3A:56-5.3(d)3 and 4 and (e)3 and 4, when the treatment team has determined the child appropriate for unsupervised time in the home or community.

(g) Group homes, psychiatric community homes for children, teaching family homes, alternative care homes, and treatment homes shall send to the Division's worker or other placing agency a copy of the treatment plan and revisions to it within 30 calendar days after the treatment planning meeting and retain a copy of the plan in the child's record for at least four years after the child's discharge.

(h) Group homes, psychiatric community homes for children, teaching family homes, alternative care homes, and treatment homes shall ensure that the child's treatment plan and any revisions to it are explained to the child, his or her parents and all staff members responsible for the plan's implementation. If the home does not explain the child's treatment plan to the child's parents, the home shall document in the child's case record the reasons why the plan was not explained to the parents.

§ 3A:56-6.2 Discharge planning

(a) For discharges that can be anticipated, the home shall develop a plan with the Division's worker or other placing agency staff at least 30 days before the child's discharge. The plan shall be sent to the Division's worker or other placing agency and shall specify the following information:

1. The date of admission;

2. The anticipated or actual date of discharge;

3. Details of the events and circumstances leading to the decision to discharge;

4. The name and address of the individual or agency to whom the child will be discharged and the rationale for planning a discharge to that individual or agency;

5. An assessment of the child's continuing needs, including, but not limited to, consideration of health care, behavior management and educational or vocational training; and

6. The date and time of the next appointment with a new or ongoing service provider, or documentation of the effort to make an appointment.

(b) For discharges that were not anticipated at least 30 calendar days ahead of time, the home shall send the Division's worker or other placing agency a written plan at least 10 working days prior to the child's discharge. This plan shall specify the following information:

1. The date of admission;

2. Details of the events and circumstances leading to the discharge;

3. Efforts made to locate a runaway, if relevant;

4. An assessment of the child's continuing needs including, but not limited to, health care, behavior management and educational and vocational training; and

5. Recommendations for providing follow-up services in the child's new environment.

(c) For emergency discharges that result in the immediate placement of the child in a facility such as a detention center, hospital, psychiatric facility or any other placement outside the home, the home shall notify the Division's worker or other placing agency by the next working day by telephone. The home shall send a written discharge plan within 10 days after the child's discharge. This plan shall specify the information outlined in (b)1 through 5 above.

(d) In addition, for a discharge that can be anticipated at least 30 days in advance, on the day of discharge, the home shall provide the individual or agency to whom the child is being discharged with a list of current prescribed medications and at least a two-week supply of medication. The home or agency shall secure and maintain on file the signature of the receiving individual attesting to receipt of the list of medication(s) and two-week supply.

(e) In addition, for a discharge that was not anticipated at least 30 calendar days in advance and for emergency discharges, the home or agency shall provide a list of current prescribed medication, make a good faith effort to provide at least a 24-hour supply of medications, and document in the child's record the attempt to comply with (d) above.

§ 3A:56-6.3 Case management plan for children in supervised transitional living homes

(a) The supervised transitional living home shall develop, implement and keep on file a written individualized case management plan for each child. The plan shall delineate how to meet the child's needs and to prepare the child for independent living in the community.

(b) The supervised transitional living home shall develop the initial case management plan within 30 calendar days following a child's admission and shall review or revise the initial case management plan at least every three months thereafter.

(c) The supervised transitional living home shall document in the child's record that the Division's worker or other placing agency, and the responsible school district of the child, if applicable, were asked to participate in the meeting to develop the case management plan and all subsequent meetings to revise the plan.

(d) The supervised transitional living home shall invite the child's parents to the planning meeting. If the parents do not attend the meeting, the supervised transitional living home shall ensure that the child's case management plan and any revisions to it are explained to the child's parents, or document in the child's case record the reasons why the plan was not explained to the parents.

(e) The case management plan shall include the following information:

1. The name of the child;

2. The date of the child's admission;

3. Updated medical and dental examinations, as specified in N.J.A.C. 3A:56-7.2;

4. The date of the meeting at which the plan is developed or revised;

5. The names and titles of all staff members and any other persons attending the development or review meeting;

6. The child's social history, including family background, emotional and behavioral problems and academic strengths and weaknesses;

7. The family visiting schedule and level of compliance or reasons why visits were not scheduled;

8. Specific case management goals and plan for achieving and monitoring progress;

9. A notation of progress made from the previous plan and any identified obstacles to goal achievement;

10. Goals and recommendations for discharge and aftercare; and

11. A plan for helping the child become self-sufficient, including, but not limited to, instruction in:

i. Food preparation;

ii. Budgeting and money management; and

iii. Career planning and employment and skills training.

(f) The supervised transitional living home shall send to the Division's worker or other placing agency a copy of the case management plan or any revisions to it within 30 calendar days after the meeting and shall retain a copy of the plan in the child's record.

(g) The supervised transitional living home shall ensure the child has input in his or her case management plan and document the child's attendance at each case management planning meeting.

(h) The supervised transitional living home shall ensure that relevant sections of the child's case management plan are explained to all staff members responsible for the plan's implementation.

§ 3A:56-6.4 Work and employment

(a) The home shall not allow a child to be responsible for duties assigned to staff members.

(b) The home may require children to perform work assignments in the home that have an instructive value, including normal household chores, so long as these assignments are not scheduled to interfere with a child's school program, other aspects of the treatment or case management plan, or any regularly scheduled program activity for the children in the home.

(c) The home's staff members shall encourage children to hold part-time employment outside the home, but shall ensure that the work does not interfere with the child's school program, or other aspects of the treatment or case management plan.

1. The home may require a child to maintain specific academic standards as a condition for seeking or maintaining employment.

2. The home may prohibit a child's employment, if a child does not maintain appropriate academic or behavioral standards, or if the job is determined to be detrimental to his or her health, safety or well-being.

§ 3A:56-6.5 Money and allowance

(a) Group homes, psychiatric community homes for children, teaching family homes, alternative care homes and treatment homes shall provide opportunities for all children to receive an allowance or to earn money up to an amount specified in their placement contract or based upon the nature or extent of the job or chore.

(b) The home shall not require a child to assume responsibility for expenses for his or her care and treatment, laundry or hygiene supplies, except for amounts needed to pay for intentional damage done to the home by the child.

1. When a child damages the home's property, the home shall identify the child who damaged the property in an incident report before requiring the child to pay restitution.

2. The restitution payments shall not exceed 50 percent of a child's weekly income from allowance.

3. Children who are working or have savings or choose to use their allowance shall have the opportunity to make a lump sum payment for intentional damages, if deemed clinically appropriate and consistent with the child's treatment plan.

4. The home may offer the child the option of performing additional chores in lieu of restitution payments, as long as these chores comply with the provisions specified at N.J.A.C. 3A:56-6.4(b).

§ 3A:56-6.6 Visitation and communication

(a) The treatment team shall determine the family members and friends with whom the child may communicate and visit.

1. The treatment team shall identify visitors with whom the child may have contact at intake and may revise the list at subsequent treatment planning or case management meetings.

2. Between treatment planning or case management meetings, the home may curtail a child's contact with individuals after consultation with the Division or other placing agency if the home:

i. Informs the child of the conditions of and reasons for restriction or termination; and

ii. Documents in the child's record the reasons for curtailing contact with the specified individuals.

(b) The home shall develop a visitation policy and explain and distribute the policy to the child and parents at intake. The visitation policy shall specify:

1. The hours for visiting family members and how alternative hours may be arranged;

2. That family visits shall not be denied for a child's infraction of rules, but may be denied if such visits would be contrary to the child's treatment plan and the home shall document denied visits in the child's case record;

3. That visitors who appear to be under the influence of drugs or alcohol or in the possession of a firearm/weapon shall not be allowed to visit and shall not be allowed to transport the child;

4. That the child may visit his or her Division worker or other placing agency worker upon request and that these visits shall not be denied for any reason; and

5. The hours when a child may visit with friends and whether a child's visits with friends may be curtailed for a child's infraction of the rules.

(c) The home shall develop and maintain on file a telephone policy and explain and distribute the policy to the child and parents at intake. The telephone policy shall specify:

1. The home shall permit access to a telephone by the child for telephone conversations with DCF workers or other professional persons involved in the child's treatment planning.

i. The child shall not be charged a cost for these telephone calls; and

ii. The home shall provide adequate privacy for these telephone calls and all other calls but may locate the telephone in an area where a staff member can observe the child's reactions.

2. The home shall permit reasonable access to the telephone by the child for telephone conversations with his or her parents. The home may impose restrictions on these conversations if the following conditions exist:

i. The cost of the telephone calls is prohibitive although the child shall not be charged a cost for these telephone calls; or

ii. The home is complying with a court order which limits the child's contact with his or her parents.

3. When the home imposes restrictions on a child's access to telephone conversations with his or her parents, as specified in 2 above, the home shall:

i. Explain the nature of any restrictions to the child; and

ii. Document the rationale for imposing restrictions in the child's record.

4. The written policy shall also address the use of the telephone by children when they communicate with friends. The home may not charge the child a cost for these calls but may impose one or more of the following conditions:

i. Restricting the time and duration of telephone calls;

ii. Denying the child use of the telephone, except for calls to parents/guardians or DCF workers, for infraction of house rules; and

iii. Requesting the child to identify telephone callers.

5. The home shall not use tapes or any other mechanical listening devices to monitor a child's telephone calls.

6. A home that allows children to maintain personal cellular phones shall ensure that the written policy governing the use of telephones by children includes any restrictions the home may place on the use of such devices.

(d) The home shall not restrict the amount of mail a child sends or receives, unless a court order stipulates such restriction.

1. The child shall receive a postage allowance and writing materials for corresponding with family, friends and other persons who have a positive impact on the child's treatment.

2. No staff member shall open the child's parcels or letters or read the child's letters unless the child is physically incapable of doing so, and then only in the presence of both the child and another staff member.

3. A staff member may ask a child to open parcels and letters in the staff member's presence along with at least one other staff member only if he or she suspects the contents to be contraband, as specified in N.J.A.C. 3A:56-6.15.

i. If the child refuses to comply with the staff member's request, the home shall store the parcel or letter in a secure place until the child complies or is discharged.

ii. The home shall document the rationale for and the outcome of all incidents when a staff member asks a child to open mail in a staff member's presence.

(a) The home shall ensure that each school-age child receives an educational program pursuant to N.J.S.A. 30:4C-26(c) and N.J.S.A. 18A:7B-12(a).

(b) The home shall make efforts to ensure that the child is enrolled in a local community school, if appropriate.

1. The home shall document efforts to locate a school setting for the child and specify how the child's school progress will be monitored.

2. After the child is enrolled in a school program, the home shall document contacts with school personnel to discuss the child's progress at each treatment planning meeting.

(c) If a child is receiving education through home instruction, the home shall:

1. Provide space within the home for such home instruction; and

2. Document when home instruction was provided.

(d) If a school-age child is not receiving an educational program, the home shall:

1. Document in the child's record the reasons why educational programming is not feasible;

2. Maintain contact with the responsible school district and/or the local school district to ensure that the school districts are actively pursuing alternate educational programming; and

3. Document in the child's record what the child is doing during school hours.

(e) The home shall provide appropriate instructional, educational and recreational activities for children not of school age who are in the home during school hours. These activities shall be reflected in the child's treatment plan.

§ 3A:56-6.8 Recreation

(a) Group homes, psychiatric community homes for children, teaching family homes, alternative care homes, and treatment homes shall plan or provide a balanced on-grounds and off-grounds recreational program. The recreation program shall include planned individual and group activities.

(b) Group homes shall have a written schedule of daily planned recreational and leisure time activities.

1. The home shall ensure that this schedule is developed with input from staff members and children.

2. The home shall keep these schedules on file for 90 calendar days.

(c) Supervised transitional living homes shall encourage children to use their leisure time productively by documenting their efforts to:

1. Inform children of appropriate activities in the community;

2. Teach children how to manage time and money to be able to participate in recreational activities; and

3. Teach children how to use public transportation.

§ 3A:56-6.9 Religion

(a) If a home's program has a particular religious orientation, the home shall maintain on file in the home a written description of its religious orientation and any religious practices or restrictions that are observed. Before the child's admission, the home shall give this description to the child and the parents and discuss its religious orientation, if any.

(b) The home shall ensure that every child is afforded the opportunity to participate freely in religious activities and/or services in accordance with his or her own faith or with that of his or her parents.

(c) The home shall make reasonable efforts to ensure that every child is permitted to attend religious activities and services in the community and the home shall make reasonable efforts to arrange for or directly provide transportation, if necessary, for any child who wishes to attend religious activities or services unless deemed clinically inappropriate.

(d) The home shall not coerce or require children to participate in religious activities.

1. The home shall not punish children who choose not to participate in religious activities.
2. The home shall not give special rewards to children for participating in religious activities.

§ 3A:56-6.10 Rest, bedroom, and sleep

(a) The home shall ensure that:

1. Every child is provided with a standard household bed or crib, as age appropriate, in sanitary condition;

2. Every set of bunk beds is limited to two in height, which shall:

i. Have railings on top bunks that are no more than 3 1/2 inches from the top of the bed frame; and

ii. Have mattresses that are least five inches from the top of the railing;

3. Every bed or crib is equipped with a firm, sanitary, fire retardant mattress and waterproof mattress cover;

4. Every child is provided with sanitary bed linens that are changed weekly, a blanket or other suitable covering that is cleaned or replaced, as necessary, and a pillow;

5. Two or more children do not share the same bed;

6. Children who are 18 months of age and older do not share the same bedroom with an adult, unless the adult is their mother and they are in placement in a home that provides services to pregnant and parenting adolescents;

7. A child does not sleep on the same bed or crib that another child has occupied unless the bed linen is changed;

8. Children who are five years of age or older occupy a bedroom only with members of the same sex;

9. Any bedroom occupied by children has natural light and ventilation provided by one or more windows opening directly to the exterior;

10. An unfinished attic or basement is not used for sleeping purposes;

11. All rooms used as bedrooms are not used for any other purpose;

12. Each child is provided with a chest of drawers or some other permanent arrangement for storage of clothing and other personal belongings, including closet space or the equivalent;

13. Each child is permitted reasonable freedom to express his or her personal tastes in the decoration of his or her bedroom or bedroom area;

14. Each child has the opportunity for at least eight hours of uninterrupted sleep each night. Schedules for waking and retiring each day shall be adapted according to the ages, physical condition and characteristics of the children in each group;

15. The facility does not permit more than four children to occupy a designated bedroom space for sleeping. If partitions are used to designate a bedroom space, the facility shall ensure that the arrangement and height of partitions shall provide privacy for the occupants of the space;

16. Every bedroom is provided with a reading lamp or other means of artificial light for quiet activities;

17. Every bedroom window is equipped with curtains, blinds, or shades; and

18. Children who share bedrooms are appropriately matched in regard to age, gender, and treatment issues.

§ 3A:56-6.11 Food and nutrition for children

(a) The home shall ensure that each child is provided with three nutritious meals daily, either in the home itself or in the community.

1. The home shall make daily snacks available for children who desire them, unless there is a medical reason not to provide them.

2. The home shall select, store, prepare, and serve food in a sanitary and palatable manner.

3. Homes that serve between six and 12 children shall prepare and date menus and keep the menus on file at the home for a minimum of 30 calendar days.

4. The home shall provide table service for children.

5. The home shall serve meals in a manner that makes mealtime a pleasant social experience.

6. The home shall not force-feed or otherwise coerce a child to eat, except by order of a physician.

7. The home, other than treatment homes in private dwellings, shall ensure that opened and left-over food is dated for the purposes of ensuring timely disposal.

(b) The home shall ensure that the daily diet for each child includes a balance of foods from all essential food groups.

1. The home shall ensure that each meal contains a sufficient amount of food for every child, including provisions for additional helpings.

2. The home shall make available, as necessary, an alternate choice of food for each meal served for children on special diets, with documented food allergies, or children who, because of religious beliefs, cannot eat particular foods.

3. The home shall follow individualized diets and eating schedules that are submitted to the home by the child's physician or registered dietitian.

§ 3A:56-6.12 Pets

(a) The home shall ensure that pets kept by or located in the home, regardless of ownership, meet the appropriate local ordinances that permit the type(s) and quantities of animals, and shall be:

1. Domesticated and non-aggressive, or exotic animals that are permitted to be owned in accordance with the rules set forth by the New Jersey Department of Health or other applicable out-of-State agency;

2. Free from disease;

3. Vaccinated, if applicable, as prescribed by law or as recommended by a licensed veterinarian. The record of the vaccinations shall be maintained on file at the home, along with the name and address of the licensed veterinarian providing care for the pet;

4. If sick, removed from the area occupied by children, until the pet has been examined by a licensed veterinarian;

5. Effectively controlled by leash, command or cage; and

6. Prohibited from toilet facilities for staff members and children.

(b) The home shall ensure that animal waste is disposed of in a manner that prevents the material from becoming a community health or nuisance problem. Accepted methods include:

1. Burial;

2. Disposal in sealed plastic bags; and

3. Utilization of:

i. A municipally approved trash removal system; or

ii. A sewage system for feces.

(c) The home shall ensure that all pet dishes, food and equipment used for pets are kept out of the home's food preparation and food serving areas when food is being prepared or served.

(d) If a pet poses a health hazard to children, the home shall take corrective action that is approved by the licensing agency.

(e) The home shall ensure that pregnant adolescents are not permitted to clean a cat's litter box.

§ 3A:56-6.13 Restrictive behavior management practices

(a) Homes that choose to utilize restrictive behavior management practices shall develop policies and procedures that assist children in gaining control of their behavior, protect the children from self-harm, protect other children or staff members, and prevent the destruction of property.

(b) The home shall:

1. Obtain written approval from the Office of Licensing for restrictive behavior management practices that are not identified in (i) and (j) below, that the home plans to utilize, prior to their implementation with children; and

2. Not utilize restrictive behavior management practices as a means of punishment, for the convenience of staff members, or as a substitute for a treatment program.

(c) Prior to the child's admission, the home shall:

1. Explain to the parents, the child, the Division's worker, or other placing agency any restrictive behavior management practice that is used, the circumstances under which it will be employed, and the possible risks involved; and

2. Obtain written consent for the use of each restrictive behavior management practice the home uses from the child's parents or legal guardian.

(d) The home shall ensure that the consent form is written in plain language and is explained to the parents.

(e) Whenever the parents refuse to consent to a restrictive behavior management practice, revoke their consent for the practice, or cannot be located to give consent, the home shall:

1. Refrain from utilizing the practice unless the child presents an imminent danger to self or others, and apply other, non-restrictive interventions until such consent is obtained and continue to make reasonable efforts to obtain informed consent; and

2. Request that the Division's worker and the placing agency obtain the necessary consent, either through administrative action pursuant to an agreement between the parent, the Division, and other placing agency or through legal action, if necessary to protect the best interests of the child.

(f) The home shall maintain a copy of all signed consent forms in the child's records.

(g) At least 10 working days before each staffing or treatment planning meeting for a child for whom the home uses a restrictive behavior management practice, the home shall send a letter to the child's parents and the Division's worker and other placing agency, which shall:

1. Inform them of the frequency and duration of any restrictive behavior management practice that was used with the child;

2. Describe how the child responded to the treatment; and

3. Invite them to the treatment planning meeting to discuss the child's program and progress.

(h) The home shall develop and maintain on file in the home or home's administrative office a policy indicating which restrictive behavior management practices the home uses.

(i) Homes that utilize physical restraint with children shall:

1. Ensure that physical restraint is used only to protect a child from self-harm, or to protect other children or staff members, or to prevent the destruction of property when the child fails to respond to non-restrictive behavior management interventions;

2. Ensure that staff members only use physical restraint techniques and holds, such as escort holds approved by the Office of Licensing, which staff members may implement to move a child from one place to another, the basket hold or restraining the child in the prone position and only when the child:

i. Has received a medical examination that documents that the child is in good health; and

ii. Does not have a documented respiratory ailment such as asthma, a spinal condition, fractures, seizure disorder or other physical condition that would preclude the child from being restrained, unless the physician authorizes such techniques;

3. Ensure that a minimum of two staff members are involved in the physical restraint and at least one staff member monitors the child's breathing by maintaining constant visual face-to-face contact with the child during the restraint;

4. Ensure that a child is released from restraint as soon as he or she has gained control;

5. Document each physical restraint incident in an incident report that reflects the following:

i. The name of the child;

ii. The date and time of day the restraint occurred;

iii. The name(s) of all staff members involved in the restraint;

iv. Precipitating factors that led to the restraint;

v. Other non-restraint interventions attempted;

vi. The time the restraint ended;

vii. The condition of the child upon release; and

viii. A medical review by the nurse or physician if injury to the child is suspected;

6. Ensure that all restraint incidents are:

i. Reviewed by a supervisory staff member within one working day after the incident; and

ii. If needed, discussed with the staff member involved in the restraint incident within one working day after the incident.

7. Ensure that staff members who are involved in the restraint of a child receive training in safe techniques for physical restraint and that such training is updated at least annually;

8. Prohibit staff members from utilizing the following practices during a physical restraint:

i. Pulling a child's hair;

ii. Pinching a child's skin;

iii. Twisting a child's arm or leg in such a manner that would cause the child pain;

iv. Kneeling, straddling or sitting on the chest or back of a child in such a manner as to inhibit the child's breathing;

v. Placing a choke hold on a child;

vi. Bending back a child's fingers;

vii. Intentionally shoving a child into walls and objects; and

viii. Allowing other children to assist in the restraint; and

9. Ensure that staff members are trained in escape, release and defensive blocking techniques approved by the Office of Licensing, to be used when staff members are placed at risk of physical injury during the implementation of a physical restraint.

(j) Homes that utilize exclusion shall:

1. Inform staff members through written policy of the circumstances when exclusion may be utilized as a behavior management intervention, such as:

i. Disruptive behavior, including fighting, name calling and pushing;

ii. Increased agitation on the part of the child;

iii. Non-compliant behavior or failure to participate in the program; and

iv. Uncontrollable emotional outbursts such as crying, screaming and inappropriate laughter;

2. Ensure that the child being excluded has no record of suicidal behavior;

3. Prohibit more than one child from being excluded in a room or area at a time;

4. Ensure that at least one staff member is responsible to make visual contact with the child every 10 minutes and is within hearing distance of a child when the child is removed from the group;

5. Ensure that the home does not utilize a closet, bathroom, unfinished basement, unfinished attic, stairway, locked room or other unapproved area when excluding a child from the group;

6. Ensure that the exclusion of a child from the other children does not exceed 30 consecutive minutes, unless there is direct verbal contact by a staff member to assess if the child is ready to return to the other children prior to the end of the 30 minutes and a child is not excluded from the group for more than a total of two hours in a 24-hour period, unless there are circumstances documented in the child's treatment plan by a physician's written order, or a physician's verbal order to the nurse documented in the child's record extending the exclusion time;

7. Document each exclusion of a child in an incident report that reflects the following:

i. The name of the child;

ii. The date and time of day the exclusion occurred;

iii. The name(s) of all staff members observing the child;

iv. Precipitating factors that led to the exclusion;

v. Other intervention attempted;

vi. The time the exclusion ended; and

vii. The condition of the child upon release; and

8. Ensure that the child is reintroduced to the group in a sensitive and non-punitive manner as soon as he or she has gained control.

(k) The home shall not utilize mechanical restraint on any child, such as:

1. A straight jacket;

2. Leg irons;

3. A papoose board;

4. A rope;

5. Metal handcuffs;

6. Body wraps;

7. Body tubes;

8. Teflon handcuffs;

9. Blanketing; and

10. Four and five point restraint.

(l) The home shall not have a behavior management room, which is a room specifically designed and constructed for the isolation of children.

§ 3A:56-6.14 Discipline and control

(a) The home shall develop house rules to help the children develop self-control and conform to acceptable patterns of social behavior.

1. The home shall put the house rules in writing.

2. The house rules shall include a rationale for such rules and delineate the consequences for infractions.

3. The home shall explain its disciplinary practices individually with each child at the time the child is placed in the home.

4. The house rules shall be maintained on file in the home and made available to parents, as specified in N.J.A.C. 3A:56-3.3.

5. The home shall post the house rules in a conspicuous place in the home, accessible to those served.

(b) Homes that use time out as a means of disciplining children and to teach them self-control shall:

1. Develop written guidelines and criteria for staff members using time out with children;

2. Discontinue the time out as soon as the child is under instructional control;

3. Ensure that the length of time for each time out does not exceed 30 minutes; and

4. Ensure that the time out does not take place in a closet, bathroom, unfinished basement, unfinished attic, stairway, locked room or other unapproved area.

(c) The home shall assign responsibility for the discipline, control, and supervision of children to staff members and shall not delegate that responsibility to other children.

(d) The home shall not threaten discipline or administer discipline to a child for the misbehavior of another child or group of children.

(e) The home shall prohibit the following types of punishment from being used on a child:

1. Any type or threat of physical hitting or the use of corporal punishment;

2. Forced physical exercise or forcing a child to take an uncomfortable position;

3. Subjection to verbal abuse, ridicule, repetitious writing, humiliation, or other forms of degradation;

4. Deprivation of meals, snacks, sleep, mail, clothing appropriate to the season or time of day, or verbal communication;

5. Mechanical or chemical restraint;

6. Assignment of overly strenuous physical work;

7. Exclusion from any essential program or treatment service, such as education or clinical treatment;

8. Refusal of entry to the residence;

9. Temporary suspension and return of a child from the home to a parent, relative, foster home, or shelter, unless approved by the placing agency; and

10. Seclusion in a locked room.

§ 3A:56-6.15 Search and seizure of weapons and contraband

(a) Homes may conduct searches for weapons or contraband, provided that they maintain on file in the home written policies and procedures that are consistent with the requirements of this manual.

1. The home shall define contraband to include illegal drugs, unauthorized property, stolen property or items otherwise obtained illegally.

2. The home shall explain the policy and distribute copies of the written policy to children and their parents upon admission and at least annually thereafter.

3. The home shall specify the actions that it will take when weapons or contraband are found.

(b) The home shall prohibit all staff members, consultants and volunteers from strip searching a child for any reason.

(c) The home shall permit frisk searches (surface searches of the outer clothing) of a child where there is reasonable suspicion that the child is in possession of a weapon or illegal drugs.

1. The home shall prohibit staff members from reaching into a child's pockets unless the frisk search confirms the reasonable belief that the child is in possession of a weapon.

2. The home shall not permit reaching into a child's pockets, but may permit frisk search of a child who is suspected of possessing illegal drugs when:

i. The home has met the requirements as specified in (d) below;

ii. The child refuses to empty his or her pockets or belongings; and

iii. The police refuse to respond to the home's request to conduct a lawful search.

3. The home shall not permit frisk searching a child who is suspected of possessing contraband other than a weapon or illegal drugs.

4. The home shall ensure that any frisk search is conducted:

i. In the presence of two staff members, one of whom has supervisory or administrative responsibilities in the home; and

ii. Only by staff members of the same sex as the child. If same sex staff members are not available, staff members shall provide one-to-one supervision of the child, until the search can be properly conducted.

5. The home may choose to use an electronic wand or other similar noncontact device on a child who is suspected of possessing a weapon.

i. The home shall obtain written approval from the Office of Licensing for the use of an electronic wand or other similar noncontact device prior to its use with children, which approval shall be based on the fact that the device is safe and presents no harm to the children;

ii. The home shall maintain on file a written policy that outlines the use of an electronic wand or other similar noncontact device;

iii. The home shall inform children and parent(s) that an electronic wand or other similar noncontact device may be used to search for a weapon; and

iv. All staff members who use an electronic wand or other similar noncontact device shall be instructed in its use.

(d) When the home has reasonable suspicion that a child is carrying illegal drugs or other contraband in a garment, pocket, purse, or other possession within the child's immediate control, the home shall ensure that the staff member:

1. Asks the child voluntarily to empty any garment, pocket, purse, or other possession, while in the presence of a second staff member;

2. Inspects all such items that are in plain view; and

3. Summons a law enforcement officer to conduct a lawful search of the possessions within the child's immediate control whenever the child refuses a voluntary search by the home staff member.

(e) The home may choose to conduct searches for weapons and illegal drugs as a part of the home's general practice, when residents return from a home visit or unsupervised trip into the community, provided that:

1. The home establishes and maintains on file a written policy that outlines the conditions/circumstances under which these searches may be conducted. Such searches shall be predicated upon reasonable suspicion and shall be limited to the reasons justifying the intrusion;

2. Children are informed that these searches may be conducted as a part of the home's general practice and parents are notified in writing that these searches may be conducted as a part of the home's general practice;

3. Only staff members who receive instruction in such search practices are permitted to conduct searches of a child's garment, pocket, purse, or other possession within the child's immediate control;

4. Such searches are conducted in the presence of two or more staff members;

5. Staff members document such searches in an incident report, when weapons, illegal drugs or other contraband are uncovered. The home shall document such searches that do not result in the discovery of weapons, illegal drugs or other contraband in a log, or may choose to document such incidents in an incident report;

6. The home establishes and maintains on file a written policy that addresses the safeguarding and disposal of weapons that are discovered as a part of a search or surface search, as specified in (c) above and, if appropriate, submission of weapons that are recovered to the local police; and

7. The home establishes and maintains on file a written policy that addresses the safeguarding and disposal of drugs that are discovered as a part of a search or surface search, as specified in (c) above and, if appropriate, submission of drugs that are recovered to the local police.

(f) If a home has reasonable suspicion that a child's room or other possessions not within a child's immediate possession or control, contain contraband, stolen property, or weapons, the home may conduct an unannounced search if:

1. The home has explained and documented this practice to the child and his or her parents, as specified in N.J.A.C. 3A:56-3.3 and 3.6;

2. The search is conducted in the presence of two staff members, one of whom has supervisory or administrative responsibility;

3. The home allows the child, if the child is present in the home at the time of a search, an opportunity to observe the search. If the child declines the opportunity, the staff members may conduct the search in the child's absence; and

4. Staff members document such searches in an incident report, when weapons, illegal drugs, or other contraband are uncovered. The home shall document such searches that do not result in the discovery of weapons, illegal drugs, or other contraband in a log, or may choose to document such incidents in an incident report.

(g) When unannounced room searches occur, as specified in (f) above, the home shall verify which child is responsible for any weapon or contraband brought into the home before imposing a disciplinary action or sanction on the child.

(h) Before a home conducts a blood or urine screening on a child to determine substance abuse, the home shall ensure that:

1. Substance abuse screenings are conducted only under the following limited circumstances:

i. When screening is ordered by the court;

ii. When the home is specifically designated as a drug treatment facility; or

iii. When ordered by a physician who has determined that such screening is necessary; and

2. Substance abuse screening are conducted only if:

i. The home has informed the child and parents, if available, beforehand about the screening;

ii. The home uses a licensed laboratory, clinic or an FDA-approved home drug screening/testing kit to conduct the screening, including drawing the sample and completing the analysis. The home may use its own medical staff members to draw the sample that will be submitted to a licensed laboratory or clinic, provided that:

a) Such medical staff members receive training in the drawing, labeling and storage of samples; and

b) The home develops a written policy and procedures that specifies the chain of custody of the sample prior to the sample being sent and/or picked up for analysis;

iii. The home ensures that the child has privacy when a urine sample is collected, unless the home documents that the child has a history of falsifying samples. If the child has such a history, the home shall request appropriate medical staff or a staff member from the

home of the same sex as the child to witness or verify that the child is not falsifying samples; and

iv. The home verifies the accuracy of all positive tests through a second screening; and

3. Substance abuse screenings are discontinued whenever previous screenings result in three consecutive negative readings after the initial positive reading was documented, unless a court order requires continued screenings.

(i) The home shall maintain on file an incident report for every instance involving a frisk search, the use of an electronic wand or other similar noncontact device, a general practice search as specified in (e) above when weapons, illegal drugs or other contraband are discovered, a staff member's request for a child to empty a possession within the child's immediate control, a room search resulting in the discovery of weapons, illegal drugs or other contraband, and a blood or urine screening.

§ 3A:56-6.16 Firearms and weapons

(a) The home shall not maintain any firearm, chemical or other weapon within or on the grounds of the home.

(b) The home shall prohibit any staff member or child to possess any firearm, chemical or other weapon within or on the grounds of the home.

(c) As an exception to the requirements in (a) and (b) above, treatment homes and teaching family homes that are not State-owned may maintain a weapon, if they meet the following requirements:

1. The treatment home parents and teaching family home parents shall provide documentation that all weapons in the home that are required to be registered according to State law have the proper license;

2. The treatment home parents and teaching family home parents shall sign a statement that they will not share or expose the weapon to the children in the home; and

3. The treatment home parents and teaching family home parents shall store all weapons in a locked, steel gun vault approved by the Office of Licensing.

§ 3A:56-6.17 Clothing

(a) The home shall take measures to ensure that each child has an adequate personal supply of clean, well-fitting, and attractive clothing and footwear appropriate to his or her age, gender, individual needs, community standards, and season.

1. The home shall ensure that each child's clothing is kept clean and in good repair. The home may require children 12 years of age and older to do their own laundry.

2. The home shall not require children to wear any article of clothing that would explicitly identify them as residents of the home.

§ 3A:56-7.1 Comprehensive health plan for children

The home shall prepare and implement a comprehensive health plan to ensure that each child's medical, dental, mental health, and other health needs are met adequately and promptly.

§ 3A:56-7.2 Health care and medical treatment for children

(a) The home shall identify a physician or health care organization who will assume responsibility for routine, emergency and follow-up medical care of each child.

(b) Within 72 hours after admission, the home shall ensure that each child receives a comprehensive physical examination, as defined in (e) below, unless the child had received such an examination within 30 calendar days prior to his or her placement.

1. The home may extend the time frame up to 30 days for vision screenings and hearing screenings, as specified in (e)1iii and iv below, that are required as part of the child's comprehensive physical examination.

2. The home shall:

i. Obtain documentation of a vision and hearing screening, as specified in (e)1iii and iv below and performed within the last 11 months prior to the child's admission or within 72 hours after admission; or

ii. Obtain a vision or hearing screening as specified in (e)1iii and iv below within 72 hours after admission when there are indications that the child may have untreated vision or hearing problems.

(c) When the home suspects that a child is ill or carrying a contagious disease, the child shall be examined by a physician prior to admission.

(d) When the home suspects that a child has been abused or neglected the home shall ensure that the child is examined by a physician immediately upon admission.

(e) The home shall ensure that each child receives an annual comprehensive physical examination and maintain a copy of this physical examination in the child's record.

1. The physical shall include, but is not limited to:

i. A measurement of height and weight;

ii. A determination of blood pressure;

iii. An objective vision screening which uses a Titmus or Snellen test, or equivalent, given within one year of the previous vision test;

iv. A hearing screening using an audiometer and, if indicated, tympanometry, given within one year of the previous hearing test;

v. A hematocrit or Hemoglobin test, if indicated; and

vi. A urinalysis, if indicated.

2. The home may use vision and hearing screening tests completed at the child's school if these tests meet the requirements specified in (e)1iii and iv above.

3. The home shall ensure that eye glasses, orthopedic apparatus or other equipment is available to each child who requires them.

4. The home shall ensure that all children 13 years of age and under receive a Mantoux test unless they have had tuberculosis, and ensure follow-up with the physician if test results are positive.

5. The home shall ensure that all children are appropriately immunized.

(f) The home shall ensure that each child receives a dental examination within three months following admission and at least semi-annually thereafter.

(g) The home shall ensure that children between two and six years of age receive developmental evaluations by a physician, nurse or other appropriate health official.

(h) The home shall ensure that follow-up medical care is obtained as recommended following a comprehensive physical examination or other health examination.

(i) Where the term "physician" is referenced in this section, an advanced practice nurse (APN) may provide the indicated service, as licensed.

§ 3A:56-7.3 General medical practices

(a) The home shall ensure that any medical, dental, psychological and psychiatric treatment or medication administered to a child is explained to the child.

(b) When serious accidents or illnesses occur to a child, the home shall take necessary emergency action and notify the parents and the Division's worker or other placing agency immediately. The home shall document these incidents in the child's record.

(c) When a child or staff member has a communicable disease, as specified in the table in this subsection, the home shall:

1. Obtain a note from a licensed physician treating the child or staff member, confirming the diagnosis and indicating that there is no risk to the child or staff member, or to others before the child or staff member participates in group activities;

2. Isolate the child or staff member posing a risk to others; and

3. Contact the New Jersey State Department of Health, the local health department, or other appropriate public health authority when the child or staff member has a reportable disease, as specified in the table in this subsection.

TABLE OF COMMUNICABLE DISEASES

Respiratory illnesses	**Gastro-intestinal illnesses**	**Contact illnesses**
Chicken pox	Escherichia coli*	Impetigo
German measles*	Giardia lamblia*	Lice
Hemophilus influenzae*	Hepatitis A*	Scabies
Measles*	Salmonella*	Shingles
Meningococcus*	Shigella*	
Mumps*		
Strep throat		
Tuberculosis*		
Whooping cough*		

* Reportable diseases, as specified in N.J.A.C. 3A:56-7.3(c)3.

§ 3A:56-7.4 Medication other than psychotropic medication

(a) The home shall administer prescription medication to a child only when the medication is authorized by a physician and used only as prescribed.

(b) The home shall limit the dispensing of non-prescription over-the-counter medication to the following types of medicines, which shall be dispensed in accordance with the recommended dosage, age or weight of the child, as indicated on the label:

1. Antihistamines or decongestants;

2. Acetaminophens (or other age-approved aspirin substitutes);

3. Cough suppressants; and

4. Topical ointments.

(c) The home may permit the dispensing of non-prescription medication other than those listed in (b) above if the child's physician authorizes it in writing.

(d) The home shall maintain a medication log book that shall contain the following information:

1. The name of child receiving medication, whether prescription or non-prescription;

2. The type of medication, dosage, and intervals between dosages;

3. What to do if a dosage is missed;

4. The reason for medication;

5. The date and time medication was administered;

6. Possible side effects of the medication, if any; and

7. The signature and title of staff member dispensing medication.

(e) In supervised transitional living homes, self-medicating children may record this information specified in (d) above.

(f) The home shall encourage the self-administration of medication by properly trained and supervised children whenever their intellectual, emotional and physical capabilities make such practice appropriate and feasible. This shall be documented in each child's treatment plan.

(g) The home shall ensure that the following procedures for storage are followed:

1. Group homes, psychiatric community homes for children, teaching family homes and treatment homes shall keep all prescription and non-prescription drugs in a locked cabinet or container, or, as needed, in a locked box in a refrigerator. The home shall ensure that the keys to the locked cabinets, containers and locked boxes are adequately safeguarded and maintained by staff members and are kept out of the reach of the children;

2. Supervised transitional living homes shall keep prescription drugs in a cabinet or container, or, as needed, in a refrigerator;

3. All outdated stocks and prescriptions no longer in use shall be disposed of safely as follows:

i. Liquid medication shall be poured down the drain, the bottles rinsed out and then disposed of in the trash; and

ii. Pills, tablets, and capsules shall be disposed of in a manner that is inaccessible to children and protective of the environment and may be disposed of in a locked bio-hazard container that is then picked up by a licensed bio-hazard disposal company;

4. The telephone number of the regional poison control center shall be posted at all medication-dispensing stations and by each telephone; and

5. Staff members shall have access to medical supplies at all times.

(h) In situations where the home determines that an adolescent is capable of self-administration of prescription birth control-related supplies, the home may allow the adolescent to maintain prescription birth control-related supplies amongst her personal possessions provided that the home:

1. Provides a locked cabinet or box for storage; and

2. Documents in the treatment plan the rationale and arrangements for the adolescent to maintain prescription birth control-related supplies and how medication logging shall be maintained in accordance with (d) above.

(i) In situations where the home, in consultation with the physician, determines that an adolescent in a home without overnight awake coverage must maintain prescription asthma-related rescue medication in his or her personal possession, the home shall:

1. Provide a locked cabinet or box for storage; and

2. Document in the treatment plan the rationale and arrangements for the adolescent to maintain prescription asthma-related rescue medication and how medication logging shall be maintained.

(j) Where the term "physician" is referenced in this section, an advanced practice nurse (APN) may provide the indicated service, as licensed.

§ 3A:56-7.5 Psychotropic medication

(a) The home shall not administer medication to children as a punishment, for the convenience of staff members or as a substitute for a treatment program.

(b) The home shall ensure that a pre-treatment clinical assessment, based on behaviors exhibited by the child and observed by staff members, is conducted by a licensed physician before psychotropic medication is prescribed. This pre-treatment clinical assessment shall include at least the following information:

1. A comprehensive drug history, including consideration of the use of all prescription and non-prescription drugs by the child as well as a history of cardiac, liver, renal, central nervous system or other diseases, a history of drug allergies and dietary information;

2. A laboratory work-up, including, but not limited to:

i. A complete blood count (If the medication prescribed requires routine follow-up blood work, this blood count test shall be administered prior to the child's beginning his or her medication regimen. If the medication prescribed does not require routine follow-up blood work, a new blood count test is not required as long as the child has had a blood count test within one year of admission, unless the physician determines otherwise);

ii. Urinalysis;

iii. Blood screening to include an assessment of liver and renal functions, if indicated; and

iv. Cardiogram (EKG) and electroencephalogram (EEG), as indicated, on children with previous histories of cardiac abnormalities or central nervous system disorders; and

3. A written description of:

i. The purpose of the medication, the specific behavior(s) of the child to be modified and ways in which progress towards the treatment objectives will be measured;

ii. The dosage; and

iii. How possible side effects will be monitored and reported to the physician who prescribed the medication.

(c) Within two weeks after admission, the home shall ensure that all children already receiving psychotropic medication receive a clinical assessment by a physician, as specified in (b) above. The home may extend this two week time period to a maximum of 30 days in which a child receives a clinical assessment, provided that:

1. The home has the necessary amount(s) of medication to administer to the child during any extended time period;

2. The home has consulted with the physician who previously prescribed the medication; and

3. The home documents the above-noted consultation in the child's record.

(d) The home shall not be obligated to comply with (b) above and (e) below, for a pre-treatment clinical assessment and informed consent for psychotropic medication other than long-acting drugs if the treating physician certifies in the child's clinical record that the child presents a danger to self and/or others.

1. The initial decision to administer emergency medication shall be based on a personal examination of the child by a physician.

2. The initial administration of emergency medication may extend for a maximum period of 72 hours.

3. A physician may authorize the administration of medication for an additional 72 hours upon determination that the continuance of medication on an emergency basis is clinically necessary. This authorization may be given by telephone, provided that it is countersigned by the physician and certified as to the necessity in the child's clinical record within 24 hours. If this medication is then deemed necessary for the child's treatment while in the home, the physician shall complete the pre-treatment clinical assessment as specified in (b) above.

4. The home's staff members shall document that the psychotropic medication was administered in an emergency situation. The documentation shall identify possible side effects to be monitored as described in (b)3iii above.

(e) Before administering psychotropic medication, the home shall obtain written informed consent from the parent(s) or legal guardian of children under the age of 18, and from all children 14 years of age and older unless the home documents that the child lacks the capacity for informed consent. In cases where both a parent and legal guardian exist, the home shall seek written informed consent from the legal guardian.

1. A physician, registered nurse or staff member trained in administering psychotropic medication shall obtain written informed consent.

2. The person requesting written informed consent shall ensure that parents, guardians and children are informed about:

i. The behavior or symptoms which the medication is intended to modify;

ii. The dosage; and

iii. How possible side effects of the medication will be treated.

3. When a request for written informed consent is made by a non-medical staff member, the non-medical staff member shall inform the parent or legal guardian that a physician is available for consultation regarding the proposed medication.

4. The home may obtain verbal informed consent by telephone from the child's parents or legal guardian when the home, physician, registered nurse or staff member is unable to obtain written informed consent, provided that:

i. The home documents the telephone call in the child's record; and

ii. The home obtains the written informed consent from the child's parents or legal guardian within 72 hours of receiving the verbal informed consent.

5. If the home cannot obtain written informed consent or verbal informed consent, the home shall use certified mail, return receipt requested, and shall send the request to the parent's or legal guardian's last known address at least 10 calendar days before the proposed date for the commencement of treatment. The written notice shall specify:

i. The proposed date for beginning of treatment; and

ii. That a failure to respond by the proposed date for the beginning of treatment shall empower the director, after consultation with the Division's worker or other placing agency to grant consent for the medication.

6. The home shall document all methods for requesting written consent in the child's record.

(f) When a parent, legal guardian or child refuses or revokes consent for medication, the following procedures shall apply:

1. The treating physician or his or her designee shall speak to the child or the parent or both to respond to the concerns about the medication. This person shall explain the child's condition, the reasons for prescribing the medication, the benefits and risks of taking the medication, and the advantages and disadvantages of alternative courses of action;

2. If the child or parent or legal guardian continues to refuse or revokes consent to medication and the physician or his or her designee still believes that medication is a necessary part of the child's treatment plan:

i. The director of the home shall invite the child and parent to attend a meeting with the treatment team to discuss the treating physician's recommendations and the concerns of the child or parent or legal guardian; and

ii. The treatment team shall attempt to formulate a viable treatment plan that is acceptable to the child, parent and legal guardian;

3. If, after the treatment team meeting, the child or parent or legal guardian continues to refuse or revoke consent to medication and the treating physician still believes that medication is a necessary part of the child's treatment plan, the home shall obtain an independent psychiatric review. The psychiatrist conducting this independent assessment shall review the child's clinical record, conduct a personal examination of the child, and provide a written report for the child's treatment team; and

4. If the independent psychiatric review supports the need for the medication and the child or parent or legal guardian continues to refuse or revoke consent to medication, the home may initiate an emergency discharge, as specified in N.J.A.C. 3A:56-6.2(b) and 10.5.

(g) The home shall administer psychotropic drugs in the following manner:

1. Psychotropic medication shall be dispensed only by licensed pharmacists and prescriptions shall always be labeled to reflect the following information:

i. The name and address of the dispensing pharmacy;

ii. The full name of the pharmacist;

iii. The full name of the child;

iv. Instructions for use, including the dosage and frequency;

v. The prescription file number;

vi. The dispensing date;

vii. The prescribing physician's full name;

viii. The name and strength of the medication;

ix. The quantity dispensed; and

x. Any cautionary information appropriate to the particular medication;

2. The home shall encourage the self-administration of medication by properly trained and supervised children whenever their intellectual, emotional, and physical capabilities make such practice appropriate and feasible. The child's capability for self-administration of psychotropic medication shall be documented in the child's treatment plan; and

3. The home shall ensure that psychotropic medication is stored as specified in N.J.A.C. 3A:56-7.4(e).

(h) The home shall ensure that all children receiving psychotropic medication are monitored in the following manner:

1. Staff members directly involved with the child shall record:

i. At least weekly progress towards treatment objectives; and

ii. Daily observed side effects which are identified in the pre-treatment clinical assessment;

2. Staff members shall notify the prescribing physician immediately, when side effects are observed;

3. The home shall ensure that:

i. The physician or his or her designee reviews every 30 days the child's status, behavior, well-being and progress towards treatment objectives, side effects and reason for continuing the medication;

ii. The review is documented in the child's medical record; and

iii. The home informs the child, parents, legal guardian, the Division's worker, or other placing agency about the outcome of the review.

(i) The home shall ensure that any staff member involved in administering psychotropic medication receive the following training:

1. Indications for drug use; and

2. Therapeutic and side effects.

(j) The home shall record all information about a child's psychotropic medication, as specified in N.J.A.C. 3A:56-7.4(d), and the home shall ensure that the child's medication record is available to the physician for review when additional medication is prescribed.

(k) Where the term "physician" is referenced in this section, an advanced practice nurse (APN) may provide the indicated service, as licensed and supported by a collaborative agreement with a psychiatrist and joint protocol document as specified in N.J.A.C. 13:37-8.1.

§ 3A:56-7.6 Health education and physical care for children

(a) The home shall ensure that children receive training in personal care, hygiene, and grooming habits.

1. The home shall discuss the physiological changes experienced during adolescence with children in the home.

2. The home shall instruct children about sexually responsible behavior including how to protect themselves from pregnancy and sexually transmitted diseases including AIDS.

3. The home shall instruct all children about the health consequences of smoking tobacco products, smokeless tobacco, alcohol and drug abuse.

(b) The home shall ensure that children are provided with the following:

1. Individual towels and washcloths;

2. Soap and toilet paper; and

3. Hygiene supplies that are age appropriate for their needs, such as toothpaste, mouthwash, deodorant, razors, shaving cream and feminine hygiene articles.

(c) For children unable to provide for their own personal care and hygiene, the home shall bathe and groom them, and provide other personal hygiene services that are necessary to meet their needs, as documented in the treatment plan.

(d) The home may permit residents to maintain over-the-counter cosmetics, acne preparations and personal hygiene supplies among their personal possessions.

§ 3A:56-7.7 Health requirements for staff

(a) Before working for a home, each staff member who comes in contact with the children for the equivalent of eight hours a week or more shall submit a written statement from a licensed physician indicating that he or she is in good health and poses no health risk to persons at the home. Such statement shall be based on a medical examination conducted within the six months immediately preceding such person's association with the home.

(b) Within one year prior to or upon beginning work or having contact with the children for the equivalent of at least eight hours a week at the home, each staff member shall take a Mantoux tuberculin skin test with five TU (tuberculin units) of PPD tuberculin, except that the staff shall have a chest x-ray taken if he or she has had a previous positive Mantoux tuberculin test. The staff member shall submit to the home written documentation of the results of the test or x-ray.

1. If the Mantoux tuberculin test result is insignificant (zero to nine millimeters (mm) of induration), no further testing shall be required. The Office of Licensing, home, or agency may at any time require a staff member to retake the Mantoux tuberculin test, if there is reason to believe or suspect that the staff member may have contracted tuberculosis or if the State Department of Health recommends retesting.

2. If the Mantoux tuberculin skin test result is significant (10 or more mm of induration), the individual shall have a chest x-ray taken. If the chest x-ray shows positive results, the home or agency shall require that the staff member obtain a written statement from a physician certifying that he or she poses no threat of tuberculosis contagion before allowing the staff member to come in contact with the children. The home shall ensure that the staff member adheres to the recommended follow-up testing, if any, by the physician.

3. The home or agency shall prohibit any staff member who fails to submit satisfactory results from having contact with the children at the home until a licensed physician determines that the individual no longer poses a risk to persons in the home.

(c) The home shall maintain on file the results of each staff member's:

1. Mantoux tuberculin test or chest x-ray when indicated; and

2. Physical examination.

(d) The home or agency shall exclude a staff member who appears to be physically, emotionally or mentally impaired or who appears to have a drug-induced or alcohol-induced condition that would endanger the health, safety and well-being of the children or other staff members. The home or agency shall document the action taken to exclude the staff member and maintain such documentation in the staff member's personnel record. The home or agency shall not permit the staff member to reassume duties until the condition is no longer present.

§ 3A:56-7.8 Environmental sanitation and staff hygiene

(a) Staff members shall use disposable rubber gloves, which shall be discarded after each use, when coming into contact with blood, vomit, urine, fecal matter or other body secretions.

(b) The home shall ensure that areas in the home, bedding, furniture, carpeting, and clothing, that come into contact with blood, vomit, urine, fecal matter or other body secretions are disinfected with a commercially prepared disinfectant that indicates it kills bacteria, viruses and parasites. This solution shall be used in accordance with label instructions.

(c) The following equipment items or surfaces shall be washed and disinfected after an incident, as specified in (b) above:

1. Toilet seats;
2. Sinks and faucets;
3. Mops that were used in the clean-up;
4. Washcloths, towels and sponges that were used in the clean-up; and
5. Thermometers.

§ 3A:56-8.1 General requirements

(a) The provisions of this subchapter shall apply to any home or agency that provides or arranges transportation for children:

1. To or from their homes or other prearranged sites and the home; or

2. In connection with an activity (such as a field trip) conducted by or through the auspices of the home or agency.

(b) Any home, person or agency, as defined in (a) above, also shall comply with applicable provisions of New Jersey Motor Vehicle Commission law, pursuant to N.J.S.A. 39:1-1 et seq. and rules promulgated thereunder, as specified in N.J.A.C. 13.

(c) The home or agency may authorize staff members to utilize their own private passenger vehicles to transport children from the home, to and from scheduled field trips or to transport children from the home to a hospital, clinic or office for medical treatment. However, staff members may be authorized to do so only if:

1. The vehicle has a capacity of nine or fewer persons;

2. The driver possesses a valid automobile driver's license issued by the New Jersey Motor Vehicle Commission, hereinafter referred to as the MVC;

3. The vehicle has a valid motor vehicle inspection sticker issued by the MVC;

4. The vehicle owner possesses liability insurance at least at the minimum amounts required by the New Jersey State insurance law, pursuant to N.J.S.A. 17:28-1.1a;

5. The home maintains transportation records on every vehicle utilized for the above, as specified in N.J.A.C. 3A:56-8.4; and

6. The home or agency ensures that the staff members apply the safety practices, as specified in N.J.A.C. 3A:56-8.1(d) and (e).

(d) The home or agency shall ensure that all vehicles used to transport children:

1. Are maintained in clean and safe condition;

2. Have a maximum seating capacity that does not exceed the number of seat belts;

3. Have seats and back rests securely fastened;

4. Have all seats that are facing sideways or backwards bolted down;

5. Have seats upholstered with springs or foam rubber;

6. Have an operable heater capable of maintaining a temperature of 50 degrees Fahrenheit; and

7. Are equipped with:

i. A triangular portable red reflector device that is fastened to the vehicle structure if located in the passenger compartment;

ii. All weather radial or snow tires from November 15 through April 1 (for New Jersey-based homes only); and

iii. A removable, moisture-free and dust-proof first-aid kit, which shall be located in the vehicle and fastened to the vehicle structure if located in the passenger compartment.

(e) The home or agency shall ensure that the following safety practices are followed:

1. A staff person is always present when an adolescent, child or infant is in the vehicle;

2. All passengers who are eight years of age and older or weigh 80 pounds or more are secured in an operable seat belt or car seat while the vehicle is in motion;

3. All passengers, who are under eight years of age and weigh less than 80 pounds are secured in car seats (child passenger restraint systems) that meet Federal motor vehicle safety standards in accordance with provisions of the New Jersey Motor Vehicles Law, pursuant to N.J.S.A. 39:3-76.2a;

4. All adolescents, children and infants enter and exit from the curbside of the vehicle;

5. Children are not permitted to ride in the backs or beds of trucks; and

6. Children and staff members are not permitted to smoke tobacco products or use smokeless tobacco in the vehicle.

(f) When transporting more than six children below six years of age the home or agency shall ensure that one adult in addition to the driver remains in the vehicle.

(g) When transporting more than four infants without their adolescent mothers, the home shall ensure that one adult in addition to the driver remains in the vehicle.

(h) The home or agency shall maintain transportation records, as specified in N.J.A.C. 3A:56-8.4.

(i) If the home utilizes a Type I School Bus, Type II School Bus or a Type S School Vehicle, the home shall:

1. Meet all appropriate Motor Vehicle Commission (MVC) rules, Department of Education rules and/or Department of Children and Families rules; and

2. Ensure that the drivers of such vehicles possess a valid Commercial Driver License (CDL) in at least Class B or Class C, with passenger endorsement, as required by the MVC for the gross vehicle weight rating (GVWR) of the vehicle or an out-of-State equivalent license, as approved by the MVC.

(j) The home shall limit travel in program vehicles including cars, vans and wagon trains by:

1. Scheduling at least one full day of rest after every four days of travel;

2. Ensuring that no staff member drives for more than four hours without a 30-minute break; and

3. Prohibiting driving between 11:00 P.M. and 6:00 A.M., unless it is necessary to complete an emergency evacuation.

§ 3A:56-8.2 Vehicle insurance requirements

(a) The home or agency shall maintain vehicle liability insurance for bodily injury or death in minimum amounts of $ 250,000 per person and $ 500,000 per accident for every vehicle that is:

1. Owned or leased by the home or agency; and

2. Utilized to transport children residing in the home.

(b) If the home or agency contracts transportation services, the home shall ensure that the company maintains insurance coverage as identified in (a) above.

§ 3A:56-8.3 Additional requirements for transporting physically handicapped, non-ambulatory children

(a) Homes or agencies providing or arranging for transportation services for physically handicapped children who are non-ambulatory shall have a vehicle that has a ramp device or hydraulic lift with a lift minimum pay load of 600 pounds. Any ramp device that is installed shall:

1. Have a non-skid surface;

2. Be securely stored and protected from the elements when not in use; and

3. Have at least three feet of length for each foot of incline.

(b) If wheelchairs are used, the home shall ensure that:

1. All wheelchairs are securely fastened and face forward;

2. All wheelchair passengers are secured with a seat belt;

3. Arrangements for wheelchairs do not impede access to emergency and exit doors; and

4. Any aisle leading from a wheelchair position to the emergency or exit door has a minimum width of 30 inches.

§ 3A:56-8.4 Record requirements

(a) The home or agency shall maintain on file the following:

1. A photostatic copy of the driver's license of each person whom the home or agency has authorized to transport children;

2. A photostatic copy of the registration of each vehicle used to transport children;

3. A copy of the insurance policy for every vehicle owned, leased, contracted or utilized by the home or agency; and

4. The name and address of the lessor or contractor furnishing a vehicle to the home or agency, if relevant.

(b) The home or agency shall maintain transportation maintenance records for all vehicles used by homes that serve between six and 12 children for the transportation of children, including repair and inspection records, and shall retain them for the lifetime of the vehicles.

(c) The home or agency shall maintain on file a record of trips other than routine school-related, work-related or recreation trips where the home's vehicles are used for transporting children, that documents:

1. The date and time of the trip and staff member(s) who drove;

2. Any unusual incidents of the day that occurred on the trip; and

3. The names of the children who attend the trip.

(d) The requirements in (c) above shall not apply to normal daily transportation activity, such as routine trips to stores, school, work, medical or counseling appointments, leisure or recreation activities or other local activities, except that any unusual or serious incident that occurs on such a routine trip shall be recorded.

§ 3A:56-9.1 General requirements

(a) The requirements of this subchapter shall apply to any home or any agency that provides or contracts for adventure activities that may include, but are not limited to:

1. Biking;

2. Canoeing, kayaking and tubing;

3. Caving;

4. Hiking;

5. Horseback riding;

6. Ropes and rock climbing;

7. Sailing and boating;

8. Snow skiing, cross country skiing, snow boarding and snow tubing;

9. Solos;

10. Swimming;

11. Water skiing; and

12. Camping.

(b) The requirements of this subchapter shall not apply to commercial, accompanied recreational activities available to the general public on a walk-in basis, except as specified in (l) and (m) below and that require no special preparation or skill. However, the home shall ensure that any commercial recreational activity it uses for children that involves canoeing, kayaking, tubing, sailing, boating, or water skiing, complies with the requirements, as specified at N.J.A.C. 3A:56-9.5, 9.10, or 9.14.

(c) All homes whose program consists primarily of adventure activities shall maintain on file a written statement of purpose that shall identify the following:

1. The home's philosophy, goals, and objectives;

2. Characteristics of the children to be served;

3. Types of adventure activities that a child may participate in and other treatment services provided to the children, including those provided directly by the home and those services that may be provided in cooperation with community agencies or outside individuals;

4. Procedures for implementing those services; and

5. Criteria for successful completion of the program.

(d) For homes whose program consists primarily of adventure activities, the home shall describe to the child and the parents prior to admission to the facility, the types of adventure activities in which the child will be asked to participate. This discussion shall include:

1. An explanation of the anticipated benefits of the activity;

2. A description of the potential risks of the activity, as well as an explanation of how the facility will take precautions to minimize risks; and

3. A clear statement that no child will be forced to do an adventure activity against his or her will.

(e) For homes whose program does not consist primarily of adventure activities, the home shall discuss with the child and his or her parents the information specified above before the child is scheduled to participate in the activity. The home shall ensure that any adventure activity it uses from an outside provider complies with all applicable requirements of the particular activity as specified in this subchapter.

(f) The home shall document that a staff member discussed the information specified in (d) and (e) above in the child's record.

(g) The home shall maintain a list of all children and staff members who participate in an adventure activity that occurs away from the grounds of the home in the event staff members or children need to be contacted due to an emergency or to provide immediate information to the Division, other placing agency, Office of Licensing and parents if there is an emergency that occurs during the adventure activity.

(h) The home shall have a fully-stocked first aid kit that is activity-appropriate and available whenever an activity occurs on-grounds or off-grounds.

(i) The home shall ensure that all children and staff members receive instruction about the value of the activity and necessary safety precautions, such as how to prevent dehydration, frostbite, heat exhaustion, hyperthermia, hypothermia, poisoning from plants and animals, sun poisoning, snow blindness, or drowning, as appropriate to the nature of the activity, and what to do in case of an emergency.

(j) The home shall not force or coerce a child to participate in any adventure activity, but may require a child to observe an adventure activity to assist the child in getting over his or her fears of a particular activity or to foster an interest in participating in a particular activity.

(k) The home shall ensure that staff members discuss the following topics with all the children who have participated in an adventure activity:

1. How they felt during and after the activity; and

2. What they learned about themselves as individuals and members of a group after completing the activity.

(l) The home shall not engage in any activities requiring or involving firearms and cross bows nor permit staff to have firearms or cross bows.

(m) The home shall prohibit airborne activities including, but not limited to, bungee jumping, hang gliding, para-sailing and parachuting.

(n) The home shall not permit children to use power tools unless the children wear protective safety glasses and work shoes or boots, and are under the direct supervision of staff members.

(o) The home shall not allow children or staff to participate in manufacturer's tests of new adventure equipment.

(p) For all water activities and outdoor trips away from the grounds or campsites, the home shall modify or cancel the activity if there is a threat of a severe storm or other environmental hazard such as fires, polluted water, threat of flash floods, hurricanes or avalanches.

(q) The home shall not engage in water activities where the water is known to have hazardous wastes, such as waters that have been contaminated by toxins, sewage or chemicals.

(r) The home shall ensure that all water in streams, ponds, lakes and rivers that is used for drinking, food preparation and dishwashing is first boiled, filtered or purified with iodine or tablets specifically designed to purify water.

§ 3A:56-9.2 Plans for emergency evacuation and search and rescue

(a) The home shall develop and maintain on file at the home or home's administrative office a written plan detailing procedures for emergency evacuation from any site used for adventure activities that is in a remote area or that is away from ordinary means of communication. This plan shall include, but not be limited to, the following:

1. Guidelines on how to determine dangerous weather conditions, such as storms, including lightning, tornadoes and hurricanes, and life-threatening environmental hazards, such as fires, polluted waters, flash floods or avalanches;

2. Guidelines on how to determine whether a victim can walk out on his or her own power;

3. Guidelines for constructing a litter to carry out a child or staff member who cannot walk;

4. Procedures for evacuating all children and staff members;

5. Name, address and telephone number of local rescue squads, law enforcement agencies and hospitals, and guidelines for contacting them; and

6. Guidelines to determine whether the home needs a helicopter or other aircraft to assist with the emergency evacuation, if available.

(b) The home shall develop and maintain on file at the home or home's administrative office a written plan detailing procedures for search and rescue for each activity that takes place outside the home's grounds. This plan shall include, but not be limited to, the following:

1. Guidelines on how to conduct a search to determine that a child is missing, including a time limit for ending the search and starting a search beyond the area being used for the adventure activity;

2. Procedures for completing a full description of the missing person;

3. Procedures detailing how to deploy staff and children to scout specific areas;

4. Procedures detailing how to deploy a rescue team that shall include a staff member to seek outside help;

5. Policy that indicates when to call law enforcement agencies and telephone numbers of local law enforcement officials; and

6. Procedures for reviewing the incident with the person(s) who conducted the search.

(c) For adventure activities occurring outside the home, the home shall ensure that each staff member supervising an adventure activity:

1. Reviews the plan detailing the procedures for emergency evacuation;

2. Reviews the plan detailing the procedures for search and rescue; and

3. Brings a copy of these plans on each adventure activity.

(d) The director of the home or his or her designee shall document and maintain on file at the home or home's administrative office that all emergency evacuation and search and rescue missions were reviewed within five days of the incident.

(e) For adventure activities occurring outside the home's grounds, the home shall ensure that at least one staff member has money or credit cards to handle emergencies. The home shall equip a staff member with a cell phone.

§ 3A:56-9.3 Reporting requirements

(a) The home shall report all fatalities and all accidents requiring hospitalization or medical care by a physician to the Office of Licensing as soon as staff have access to a telephone, as specified in N.J.A.C. 3A:56-3.7(b).

(b) The home or agency shall provide written notification within 10 working days to the Office of Licensing and the child's parents and maintain on file reports of all incidents and accidents requiring hospitalization or medical care by a physician, and incidents where an accident or fatality was avoided ("near miss").

1. This documentation shall specify:

    i. The factors leading to the incident;

    ii. The nature of the fatality, accident or "near miss";

    iii. How staff members handled the incident; and

    iv. Recommendations for avoiding such incidents in the future.

(c) The home shall submit a written description to the Office of Licensing and permit an on-site inspection prior to its implementation of the following high risk adventure activities:

1. Caving;

2. Ropes and rock climbing; and

3. Solo camping.

(d) The written description required in (c) above shall include, but not be limited to, the following information:

1. The types of equipment that will be utilized;

2. The qualifications of the staff who will be involved in implementing the adventure activity; and

3. The policies and procedures to ensure the safety of the children and staff during the adventure activity.

(e) The home shall notify the Office of Licensing in writing prior to the implementation of any adventure activity that is not specified in this subchapter and that is considered to be high risk.

§ 3A:56-9.4 Biking

(a) Prior to implementing a planned biking trip that is off the grounds of the home, the home shall:

1. Obtain the necessary permits to ride on roads or highways from host states and local governments; and

2. Maintain on file at the home or the home's administrative office copies of these permits.

(b) The home shall prohibit all biking from taking place:

1. In inclement weather;

2. On roads with heavy traffic unless there is a wide shoulder;

3. After sunset and before sunrise; and

4. On unmarked, ungroomed or dangerous trails and in prohibited areas. The home may permit a child to participate in mountain biking when the following conditions have been met:

i. The child has been provided with a mountain bike that has been designed/manufactured for riding on trails;

ii. The child has been provided with a helmet designed for mountain biking, knee pads, gloves, protective goggles/eye wear and elbow pads;

iii. A staff member, volunteer or contract provider who is experienced in mountain biking accompanies the child; and

iv. The child has demonstrated an ability to participate in mountain bike riding.

(c) The home shall ensure that all persons engaged in biking:

1. Wear helmets that are approved by the American National Standards Institute (ANSI) or the Snell Memorial Fund;

2. Ride in single file on the right side of the road;

3. Obey all traffic signs and signals;

4. Yield to traffic;

5. Are led by a staff person, with another staff person riding at the end of the group; and

6. Take a 30-minute break every two hours, or sooner when a child expresses a need for rest or when a child is injured or ill. The break may be less than 30 minutes in duration if all staff members and children agree to take a shorter break.

(d) The home shall ensure that the following equipment is brought on a biking trip:

1. A road map;

2. A bike repair kit; and

3. A water bottle for each child and staff member, unless the itinerary provides access to potable water.

(e) The home shall ensure that all bikes are locked at night to deter children from running away or having the bikes stolen.

(f) Before starting a trip and every day of the trip thereafter, the home shall ensure that all bikes have:

1. Brakes that are in good working order;

2. Tires with treads and sufficient air;

3. Handlebars that are no more than 16 inches above the seat so that the biker can sit comfortably;

4. Pedals with treads that are a distance of 3 1/2 inches or more from the front wheel or fender; and

5. Reflectors in the front, rear, pedals and spokes.

§ 3A:56-9.5 Canoeing, kayaking, and tubing

(a) The home shall ensure that all staff members and children:

1. Wear personal flotation devices (PFD) (life jackets) rated Class I, II, or III by the U.S. Coast Guard. Staff members who have a valid lifesaving or lifeguarding certificate may choose not to wear a PFD; and

2. Never stand up in the canoe, kayak or tube, unless the children are in a confined area for staff supervised activities.

(b) The home shall ensure that life jackets are not used for seating or bedding.

(c) The home shall ensure that:

1. At least one staff member is present who has a valid lifesaving or lifeguarding certificate issued from an organization that is recognized by the New Jersey State Department of Health or other appropriate authority when there are 15 or fewer children;

2. Children and staff members wear footwear that is secured to their feet, unless the activity occurs on a lake with a sandy bottom and no rocks; and

3. All children and staff members stay away from debris and any trees that have fallen across the river and carry the canoe, kayak or tube along the riverbank past the debris or fallen tree, if necessary.

(d) The home shall prohibit canoeing, kayaking, and tubing:

1. At night;

2. In the open ocean; and

3. During electrical storms.

(e) The home shall ensure that the following equipment is brought along:

1. One spare life jacket for every 12 persons; and

2. Throw lines.

(f) For canoeing and kayaking, the home shall ensure that:

1. Each canoe and kayak has flotation at either end;

2. Each canoe and kayak has an extra paddle;

3. All equipment is secured;

4. Spray covers, if used, release promptly; and

5. The water temperature is 55 degrees Fahrenheit or higher unless a wet suit is provided to each child and staff member.

(g) For canoe or kayak trips in water with rapids rated Class III and IV on the International Scale of River Difficulty (hereafter referred to as the ISRD) developed by the American Canoe Association, the home shall ensure that:

1. All children and staff have completed at least three trips on water with rapids rated as Class I or II by the ISRD;

2. All children and staff wear helmets that are tied under the chin; and

3. For trips in water with rapids rated Class IV, all staff and children can do an Eskimo roll, as defined by the American Canoe Association.

(h) The home shall not take children on water with rapids rated Class V or VI on the ISRD.

(i) For tubing, the home shall prohibit trips when the water is:

1. Less than 55 degrees Fahrenheit; and/or

2. Rated above Class I on the ISRD.

§ 3A:56-9.6 Caving

(a) The home shall ensure that:

1. No child or staff member who is claustrophobic is taken on a caving trip;

2. All children and staff members wear helmets that are tied under the chin at all times;

3. At least three-quarters of the children on the caving trip are 12 years of age or older;

4. Children wear gloves if crawling is required;

5. Children have had at least two caving expeditions in horizontal caves before going into a vertical cave;

6. Children do not climb in vertical caves by hand-over-hand rope methods; and

7. Children and staff members do not run or jump in the cave.

(b) The home shall ensure that at least one staff member on the trip:

1. Is able to contact a local emergency rescue squad or the Cave Rescue Communications Network;

2. Is familiar with the terrain of the cave;

3. Carries a map of the cave, if available; and

4. Is able to assist a child or staff member who becomes claustrophobic.

(c) For non-commercial caves, the home shall obtain written permission to enter the cave from the owner or public authority.

(d) The home shall ensure that the following equipment is brought along on all non-commercial caving expeditions:

1. A space blanket;

2. A whistle;

3. Three sources of light, one of which is either carbide, electric or a miner's headlamp;

4. Waterproof matches;

5. Potable water;

6. Climbing rope;

7. Emergency food; and

8. Spare clothes.

§ 3A:56-9.7 Hiking

(a) The requirements of this section apply for all walks or hiking expeditions in remote areas that are away from ordinary means of communications.

(b) The home shall ensure that:

1. At least two staff persons carry and know how to use a compass;

2. A first aid kit is brought along that includes treatment for snake, animal and insect bites, and treatment for the ingestion of or contact with poisonous plants;

3. All children and staff wear footwear appropriate for hiking; and

4. No child or staff member carries a pack weighting more than 45 percent of his or her body weight. Each staff member and child shall have the following equipment in his or her pack:

i. A space blanket, ensolite pad or plastic tarp;

ii. A whistle;

iii. A flashlight;

iv. Emergency food; and

v. Spare clothes.

(c) The home shall ensure that each child and staff member has access to potable water.

§ 3A:56-9.8 Horseback riding

(a) The home shall ensure that all staff members and children who go horseback riding wear shoes or boots that have heels, long trousers, and approved protective head gear that is fastened under the chin.

(b) The home shall ensure that:

1. The horse is tame and can be ridden by a novice rider;

2. Two or more persons do not ride a horse at the same time;

3. The time a horse spends in ring riding is limited to a total of six hours a day, with no more than three hours of riding without at least a 15-minute break; and

4. The time a horse spends in trail riding is limited to a total of eight hours a day, with no more than four hours of riding without at least a 15-minute break.

(c) The home or agency shall provide written documentation for horses that they own that the horses are:

1. Checked daily, including the mouth;

2. Checked daily for cracked feet and reshod as necessary;

3. Fed at least once a day or according to a specified feeding schedule; and

4. Given water at least once a day or according to a specified watering schedule.

(d) The home shall retain on file at the barn housing the horses or at the home or the home's administrative office documentation of compliance with the requirements specified in (c) above.

(e) Homes that rent horses for horseback riding shall verify that the stables meet all the requirements specified in (c) above prior to utilizing their services.

§ 3A:56-9.9 Ropes initiatives and rock climbing

(a) The home shall ensure that staff members:

1. State the objectives of the ropes course or climbing trip to the children;

2. Emphasize the importance of safety procedures of each initiative to the children before starting the activity;

3. Allow each child to decide whether or not to participate in a ropes course;

4. Inspect the ropes before each group of children uses them; and

5. Demonstrate effective observation ("spotting") and how one is secured by a rope ("belayed").

(b) The home shall prohibit:

1. Smoking near the ropes;

2. The wearing of jewelry, loose clothing and hair, and eyeglasses that are not fastened;

3. Unsafe practices including, but not limited to, solo climbing, hanging upside down, diving head first, throwing people or over-straining; and

4. The activity known as the "electric fence", in which a rope is attached to trees or poles and suspended four feet from the ground in a circle, and children standing inside the rope are expected to get out without touching the rope or passing under the rope.

(c) The home shall ensure that persons on a high rope or rock climbing activity:

1. Are individually secured with an approved rope, or "belayed"; and

2. Wear helmets that are fastened under the chin.

(d) The facility shall document and maintain on file at the site of the ropes course or at the home or the home's administrative office that all ropes are:

1. Approved by the Union International Alpine Association (UIAA);

2. Visually inspected by the staff before use and discarded if the rope appears frayed or damaged; and

3. Logged for use and retired at four years from the date of purchase or after the rope has sustained the number of falls that the manufacturer's label indicates that the rope can sustain.

(e) The home shall ensure that all carbiners that are used to secure belay ropes are constructed of steel or a metal of equal strength and hardness, and have a locking gate.

§ 3A:56-9.10 Sailing and boating

(a) The home shall ensure that all sailing vessels and motor boats used by children and staff comply with all applicable Federal, State and local laws.

(b) The home shall develop and have on file at the home or home's administrative office a plan for each boating activity specifying:

1. A description of boat and engine, if relevant;

2. The names of all persons on board;

3. The survival equipment on board; and

4. The itinerary and phone number of the closest Coast Guard station.

(c) The home shall ensure that at least one staff person has completed a boating course offered by the U.S. Coast Guard Auxiliary, U.S. Power Squad, American Red Cross, or the equivalent.

(d) The home shall ensure that the following non-commercial boats have a current decal indicating a satisfactory rating on a courtesy inspection by the U.S. Coast Guard Auxiliary:

1. For motor boats, 12 feet to 65 feet; and

2. For sailboats, 16 feet to 65 feet.

(e) For sailboats and motor boats less than 16 feet, the home shall ensure that there is a throw line and a Personal Flotation Device (PFD) rated Class I, Class II or III by the U.S. Coast Guard on board for every passenger.

(f) The home shall prohibit sailing and boating outside U.S. coastal waters.

(g) The home shall ensure that all marine heads (toilets) are certified by the U.S. Coast Guard of a type authorized for the area where the boating will occur.

(h) The survival equipment on board shall be Coast Guard approved and shall include the following:

1. A personal flotation device (PFD) for each passenger as specified in (e) above;

2. Fire extinguishers of the proper type and size for the boat being used;

3. A whistle, bell or horn;

4. Signal flares or a distress lantern;

5. An anchor and line;

6. Oars/paddles;

7. A manual pump or hand bailer;

8. Navigation lights;

9. A mooring line;

10. Life rings;

11. Flashlights;

12. Drinking water and emergency food;

13. A tool kit;

14. Navigation charts; and

15. An appropriate size first aid kit.

(i) The home shall not permit children to use jet skis.

§ 3A:56-9.11 Snow skiing, cross country skiing, snow boarding and snow tubing

(a) The home shall not permit skiing in areas known to have avalanches or in temperatures below zero degrees Fahrenheit.

(b) The home shall ensure that staff:

1. Are familiar with the terrain; and

2. Carry a ski repair kit when skiing in remote areas.

(c) The home shall ensure that all children and staff members use ski equipment that is appropriate for each person's height, weight and ability and that bindings are secure.

(d) The home shall ensure that all children and staff wear appropriate clothing, gloves and eye protection.

(e) The home shall ensure that all down hill ski, snow boarding and snow tubing runs and trails are marked, opened and groomed and do not present dangerous conditions.

(f) The home shall ensure that all cross country skiing trails are appropriately rated, or in an area such as an open field, that does not present any dangerous conditions, and are able to be used by each child based upon his or her cross country skiing competency.

§ 3A:56-9.12 Solo (solitary activities)

(a) The home shall ensure that children freely consent to do a solo, defined as a camping experience where a child is living away from direct supervision of staff, and shall not coerce or force the children to do a solo.

(b) The home shall:

1. Limit solos to a maximum 72 hours;

2. Ensure that children know the boundaries of the solo activity; and

3. Prohibit children from making fires and from rock climbing.

(c) The home shall ensure that children receive the following equipment:

1. A whistle to signal for help;

2. Shelter such as a tent or tarpaulin;

3. Three liters of water a day;

4. Food sufficient for three meals a day;

5. A flashlight;

6. At least one change of clothes appropriate to the weather; and

7. A first aid kit.

(d) The home shall ensure that staff:

1. Communicate with the child at least twice a day by whistle, radio or other means to check on his or her safety and document all contacts in the shift log; and

2. Are available to provide face-to-face contact and care immediately if a child requests attention from staff.

(e) The home shall not allow children to do a solo in areas with bodies of water higher than four feet or in areas having rivers or streams with a strong water current.

§ 3A:56-9.13 Swimming

(a) A home using off-grounds or on-grounds swimming facilities that are not supervised public recreational bathing facilities shall ensure that at least one staff member has a valid lifesaving or lifeguarding certificate issued from an organization that is recognized by the New Jersey State Department of Health or out-of-State health department or other appropriate authority when 15 or fewer children are present, and two staff members have a valid lifesaving or lifeguarding certificate when 16 or more children are present.

1. Whenever 16 or more children are swimming, the home shall ensure that at least one lifeguard remains out of the water and is located in a position where he or she can observe all swimmers.

2. No staff member shall assume lifeguarding responsibility for more than three hours without a break.

(b) The home shall prohibit swimming:

1. At night time;

2. Under docks; and

3. When the water temperature is less than 55 degrees Fahrenheit.

(c) The home shall test each child's swimming ability. If a child cannot swim 100 feet, tread water for three minutes and swim under water for 10 feet, the facility shall ensure that the child wears a life jacket whenever he or she is in water over four-and-one-half feet deep, unless under direct supervision for swimming instruction. The home shall ensure that the life jacket:

1. Indicates a Class I, Class II, or Class III Personal Flotation Device (PFD) rating by the U.S. Coast Guard; and

2. Is never used as a cushion for sitting or kneeling at any time.

(d) The home shall provide staff members with the following equipment:

1. A whistle; and

2. A ring buoy with rope.

(e) A treatment home operated in a private dwelling where there is a pool on the grounds of the treatment home shall:

1. Not be obligated to comply with (a), (c), or (d)1 above in regards to the pool, but shall address the child's appropriateness for use of the pool with the agency;

2. Ensure that the pool is in compliance with local municipal codes and manufacturer standards;

3. Inform the child of pool rules and pool safety; and

4. Ensure the child is supervised at all times while in the pool.

§ 3A:56-9.14 Water skiing

(a) The home shall ensure that:

1. No water skiing occurs after sunset or before sunrise;

2. The water skier wears a Personal Flotation Device (PFD) rated class II or III by the U.S. Coast Guard;

3. A staff member other than the boat driver sits in the boat and acts as an observer of the water skier;

4. There is one staff member for every six additional children on the dock or on land; and

5. The motor boat used for water skiing meets all of the regulations as specified in N.J.A.C. 3A:56-9.10.

§ 3A:56-9.15 Camping

(a) The home shall obtain and maintain on file at the home or home's administrative office all permits, certificates or licenses that are required by the host State and local governments before using a campsite.

(b) The home shall ensure that all campsites it utilizes are located in areas that are well-drained and free of observable seepage.

(c) The home shall ensure that all tents, teepees, and canvas on covered wagons are:

1. Made of fire retardant material; and

2. Made of waterproof material that has seams that are coated to resist water.

(d) The home shall ensure that cabins, tents, teepees and covered wagons when used for sleeping provide:

1. At least 20 square feet per person;

2. At least 30 inches between beds and sleeping bags;

3. At least six feet between heads of sleepers; and

4. Cross ventilation.

(e) The home may follow the manufacturer's tent capacity instead of the requirements identified in (d) above when children and staff utilize a tent(s) for three days or less.

(f) The home shall prohibit smoking of tobacco products and cooking in all tents, teepees, and covered wagons whether used for sleeping quarters or for purposes other than sleeping.

(g) The home shall ensure that male and female children do not sleep in the same quarters.

(h) If the home uses sleeping bags instead of beds or bed linens, the home shall ensure that sleeping bags are:

1. Flame resistant;

2. Aired at least every five days and cleaned at least once a month and more often if necessary;

3. Sufficient for the temperatures where the sleeping bags will be used, as indicated by the manufacturer's label; and

4. Placed on a mat or padding when the air temperature at night is below 35 degrees Fahrenheit.

(i) If the home uses bunk beds, the home shall ensure that bunk beds:

1. Have railings on top bunks that are no more than 3 1/2 inches from the top of the bed frame;

2. Have mattresses that are at least five inches from the top of the railing; and

3. Are limited to two in height.

(j) If the home uses latrines instead of toilets, the home shall ensure that all latrines:

1. Provide for privacy;

2. Are dug at least six feet deep; and

3. Are at least 100 feet from the campsite and bodies of water.

(k) The home shall ensure that there is one latrine for every 10 persons.

(l) Homes using cabins, tents or teepees for over seven continuous days shall ensure that:

1. There is one shower or bathtub for every 10 children and staff members;

2. The children have access to bathing facilities every day during normal waking hours; and

3. The children have privacy when bathing.

(m) Homes that camp overnight for seven or fewer continuous days shall ensure that children have access to bathing facilities or are provided with other means of maintaining personal hygiene. These may include, but are not limited to, wet towels and dry shampoo.

(n) Whenever regular plumbing facilities are not available for bathing or washing, the home shall:

1. Ensure that all washing is done with biodegradable non-detergent soap; and

2. Prohibit all washing and bathing in lakes, rivers and streams.

(o) The home shall ensure that children have reasonable access to laundry facilities to wash clothing, sleeping bags and bed linens during camping trips lasting more than five days in duration.

§ 3A:56-9.16 Requirements for wagon trains

(a) The home shall ensure that the canvas and wheels are in good repair.

(b) If horses are used, the home shall ensure that the requirements regarding the care of horses, as specified in N.J.A.C. 3A:56-9.8 are met.

(c) If animals other than horses are used, the home shall:

1. Limit travel to 10 hours a day;
2. Water the animals at least every four hours;
3. Develop and maintain on file a feed plan; and
4. Check the animals daily for broken hooves and bones.

§ 3A:56-9.17 Health and sanitary practices

(a) The home shall ensure that each child has a health examination performed by a licensed physician that documents:

1. That the child can perform each type of adventure activity that he or she will be asked to do;

2. Receipt of a tetanus shot;

3. Notation of asthma, allergies or dietary needs; and

4. Notation of whether the child is on medication that would require the child to take precautions while he or she is in the sun and/or to avoid using sunscreen if indicated in the medication warning and/or to take other special precautions.

(b) Within 30 days of a child's participation in an adventure activity, the home shall document in writing and maintain on file in the child's record that the child's current health status allows the child to engage in the specified adventure activity.

(c) The home shall develop and give to each staff member a written policy for treating:

1. Snake, animal and insect bites; and

2. Ingestion of, or contact with poisonous plants.

(d) The home shall ensure that all perishable food is refrigerated at a temperature of 45 degrees Fahrenheit or lower.

(e) The home shall ensure that all non-disposable utensils used for eating and preparing food are:

1. Not used by another person before rewashing;

2. Washed and rinsed in water that is at least 180 degrees Fahrenheit or water that has been sanitized chemically; and

3. Free of cracks.

(f) The home shall ensure that all water in streams and lakes that is used for drinking, food preparation and dishwashing is boiled, filtered or purified with iodine or tablets specifically designed to purify water.

(g) The home shall corral or tie the animals other than household pets in an area located at least 50 feet from any area where food is prepared, cooked or served.

(h) The home shall:

1. Use fly repellants as necessary;

2. Remove manure daily to a distance of at least 100 feet from the campsite, cooking and dining areas; and

3. Dispose of animal wastes through burial in a sanitary manner.

§ 3A:56-9.18 Qualifications for staff supervising adventure activities

(a) The home shall comply with the applicable rules specifying disclosure of criminal convictions, Criminal History Record Information and Child Abuse Record Information background checks, academic credentials, and years of experience for the director, social service staff, and direct child care staff as specified in N.J.A.C. 3A:56-5.1 and 5.2.

(b) For all water activities, ropes initiatives and rock climbing, the home shall ensure that at least one staff person is certified by an organization with recognized expertise in the applicable activity.

(c) For land activities other than ropes initiatives and rock climbing, the home shall ensure that at least one staff member:

1. Is certified; or

2. Has had at least one year's experience and demonstrated skill in the adventure activity for which he or she will be supervising children.

§ 3A:56-9.19 Staff to child ratio requirements

(a) When children are engaged in an adventure activity, the home shall ensure that:

1. There are at least two staff members present when two or more children are engaged in an adventure activity; and

2. If more than 12 children are involved, there is one staff member for every additional six children.

(b) For purposes of determining whether a required staff ratio is met, only those staff members who are providing direct care and supervision of the children shall be counted. These staff members may be regular staff members or adventure staff members.

§ 3A:56-9.20 Special requirements for communication and visiting

(a) The requirements in this section apply only to homes that:

1. Are located in areas that are remote or away from ordinary means of communication; or

2. Use travel, including, but not limited to, backpacking, sailing or a wagon train.

(b) The home shall permit family members, the Division's worker, or other placing agency to visit the child where he or she is currently living and shall provide comfortable inside space when the weather prohibits outside visitation.

1. The home shall provide privacy for all visits between the child, the Division's worker, or other placing agency.

2. The home shall provide privacy for family visits unless the home documents in the child's record that the child would be at risk during a private family visit.

(c) The home shall develop and maintain on file in the home or home's administrative office plans and procedures to ensure that a child:

1. Can receive an emergency message from his or her family and from the Division's worker or other placing agency within 24 hours of the family member's or the Division's worker or other placing agency's contacting the home or home's administrative office;

2. Is given necessary postage to send mail to family members, the Division's worker, or other placing agency; and

3. Can receive mail from his or her family and the Division's worker or other placing agency on a weekly basis.

(d) The home shall permit the child to make private telephone calls to the Division's worker or other placing agency, upon request.

(e) The home shall permit children to make a free telephone call to a family member at least every other week.

1. The home may impose a time limit of 15 minutes on telephone calls made by children to family members.

2. The home may require children to telephone family members at off-peak times.

3. The home shall not use electronic devices to monitor children's telephone calls to family members, but may observe their reaction during the telephone call.

4. The home shall maintain documentation that children were permitted to make free telephone calls to family members. Such documentation may include but is not limited to copies of telephone bills or notes in logs.

(f) The home shall not prohibit a child from receiving messages or mail or from making bi-weekly monthly telephone calls as a consequence for misbehavior.

(g) The home shall explain its policies and procedures to all families and children upon admission and give parents a written explanation of the policy for visiting and communication. This explanation shall include the procedures for sending emergency messages and mail.

§ 3A:56-10.1 General requirements

(a) Any home or agency that provides services to pregnant adolescents and adolescent parents caring for their children shall meet all requirements of this subchapter and all applicable requirements of subchapters 1 through 9 of this manual (N.J.A.C. 3A:56-1 through 9).

(b) The home or agency shall provide services that include, but are not limited to the following:

1. Services regarding paternal involvement;

2. Services to the adolescent's family;

3. Parenting education;

4. Infant stimulation;

5. Health education and physical care of the adolescent mothers and infants;

6. Nutrition; and

7. Life skills development.

(c) The home shall provide the following indoor space:

1. A private place where adolescents can store their belongings and those of their infant and shall provide the adolescents access to this place at all times;

2. Sufficient space to accommodate tables and chairs for all adolescents and on-duty child care staff to eat meals together;

3. Adequate space for the implementation of treatment services including individual counseling sessions, parent training sessions, family counseling sessions and case management planning meetings; and

4. The following floor space for bedrooms:

i. At least 70 square feet for the first occupant of a bedroom and 50 additional square feet for each additional occupant. The home shall not allow more than four occupants, including adolescents and/or infants, to sleep in the same bedroom; and

ii. For each adolescent and infant, at least 35 square feet of common living space, defined as those areas that adolescents and infants can use for socializing or recreation during waking hours. The dining area shall not be included in determining compliance with this requirement, unless the dining area is accessible to adolescents and infants outside of meal time.

(d) The home shall maintain all indoor areas in a safe and sanitary manner by ensuring that:

1. There are no poisonous plants;

2. Any corrosive agents, insecticides, bleaches, detergents, polishes, any products under pressure in an aerosol spray can, and any toxic substance are stored in locked cabinets or enclosed in areas not accessible to infants;

3. All electrical outlets accessible to infants have protective covers;

4. All fluorescent tubes and incandescent light bulbs have protective covers or shields;

5. All windows and other glass surfaces that are not made of safety glass and that are located within three feet above the floor shall have protective guards unless the home does not provide services to ambulatory infants or toddlers;

6. Staff has access to any bedrooms that the adolescents are allowed to lock;

7. Non-permanent safety barriers (safety gates) are installed to prevent infants from falling if the home has stairs, ramps, balconies, porches or elevated play areas;

8. Materials and furniture for indoor and outdoor use are of sturdy and safe construction, easy to clean and free of hazards that may be injurious to adolescents and infants;

9. Infants are kept away from hot stoves, irons and ironing boards, knives, glassware and other equipment that may cause injury; and

10. Poisons, insect traps, and rodent traps are kept out of the reach of infants.

(e) The home shall maintain all outdoor areas in a safe and sanitary manner by ensuring that:

1. Non-permanent safety barriers (safety gates) are installed to block steps used by infants, unless the steps are blocked by a door;

2. Snow is removed from sidewalks and from the walkways and paths leading to the entrances and exits of the home:

i. Within 24 hours of cessation of snowfall; or

ii. According to local ordinance; and

3. All drains and wells have protective coverings.

(f) The home shall provide a crib for each infant under 18 months of age but may allow infants to sleep in a playpen or on a mat at least one-inch thick on the floor for naps during the daytime.

(g) The home shall provide a crib or bed for each infant 18 months of age or older.

(h) The home shall ensure that:

1. Crib and playpen slats are no more than 2 3/8 inches apart;

2. Crib, bed and playpen mattresses are fire retardant;

3. The top rails of the crib or playpen are at least 19 inches above the mattress;

4. Drop-side cribs are not used and all cribs in use meet all additional Federal standards as evidenced by possession of a certificate of compliance;

5. The mattress used in all cribs and playpens fits snugly;

6. Each infant has sheets for his or her exclusive use, which are:

i. Immediately replaced when wet, soiled or damaged; and

ii. Laundered at least once a week;

7. Cribs and playpens are free of hazards including, but not limited to, use of mobiles (for infants six months of age or older, unless the infant/toddler is developmentally delayed and would benefit from a mobile) soft objects, loose bedding, pillows, blankets, and bumper pads and toys;

8. Beds or cribs not used solely for a specific infant shall have sheets replaced with clean sheets before each use;

9. Wedges and positioners are not used;

10. Infants are placed on their backs to sleep, unless medically directed to sleep in a different position;

11. Infants' heads are not covered while sleeping; and

12. Car seats and other sitting devices are never used for routine sleeping.

(i) The home shall provide beds for all adolescents and ensure that parenting adolescents do not co-sleep with their infants in the bed.

(j) The home shall prohibit use of bunk beds for pregnant adolescents, adolescent mothers and infants.

(k) The home shall not use lead paint on and shall remove lead paint from any interior or exterior surfaces of a building, or on any furniture, toys, or other equipment used therein if deemed hazardous by a governmental agency, as specified in N.J.A.C. 3A:56-4.4(g).

(l) The home shall ensure that each adolescent and infant has a personal supply of adequate, clean, well-fitting, and attractive clothing appropriate to his or her age, gender, individual needs, community standards, and season.

1. The home shall ensure that each adolescent's and infant's clothing is kept clean and in good repair; and the home may require adolescents to do their own laundry and that of their infant.

2. The home shall not require adolescents or infants to wear any article of clothing that would identify them as a resident of the home.

3. The home shall supply adolescents with necessary personal hygiene items.

§ 3A:56-10.2 Staff and staff ratio requirements

(a) The home shall only employ staff members who are at least 21 years of age.

(b) Homes may use student interns and volunteers to support the activities of regular paid staff members. However, student interns and volunteers below the age of 21 years shall not be permitted to provide activities or transportation by themselves.

(c) Homes that serve pregnant or parenting adolescents shall ensure all staff members are certified in infant CPR, as defined by a recognized health organization (such as the American Red Cross).

(d) Treatment homes serving one or two adolescents shall have a child care staff member or house parent on duty whenever an adolescent or infant is present in the home.

(e) Homes serving three or more adolescents shall have a minimum of two staff on duty at all times. Once this minimum is met, the following staff ratios shall be used to determine staff ratio requirements for the actual member of adolescents and infants present in the home:

Adolescents and/or Infants Present in the Home	**Staff Ratio Requirement**
Waking Hours--Infants only	1 staff: 4 infants
Waking Hours--Adolescents only	1 staff: 6 adolescents
Waking Hours--Adolescents and their infants	1 staff: 6 residents
Sleeping Hours--Adolescents with or without infants	1 staff: 6 residents

(f) A home may permit an adolescent to care for another adolescent's infant if the following conditions are met:

1. The adolescent who is assuming the care of another adolescent's infant cares for no more than one other infant in addition to her own at any one time;

2. The adolescents discuss the expectations of the caregiver, including duration of child care, infant's nutritional and toileting needs, and whether the mother will make arrangements for compensation; and

3. The home documents approval of the arrangement.

§ 3A:56-10.3 Staff development and training

(a) Upon employment, the home shall document in each staff member's personnel record that each staff member received instruction in all the items, specified in N.J.A.C. 3A:56-5.4(a)1 through 8 and the following:

1. Preventing, recognizing, and reporting child abuse and neglect;
2. Infant/toddler and adolescent growth and development;
3. Infant feeding and nutrition; and
4. Proper installation of all car seats (child passenger restraint systems) utilized at the home.

(b) The home shall develop, document, and maintain on file a training plan to ensure that the director, social service worker(s), and child care staff receive a total of at least 24 hours of training each year that includes at least one hour of training in each of the following topics:

1. Preventing, recognizing, and reporting child abuse and neglect;
2. Evacuating the facility;
3. Infant and adolescent growth and development;
4. Discipline of adolescents and infants;
5. Infant care and stimulation;
6. Drug and alcohol abuse;
7. Human sexuality and AIDS prevention; and
8. Depression and suicide prevention.

(c) The home's training plan may include in-depth discussions at staff meetings, or attendance at workshops and/or attendance at conferences.

(d) The home may train staff in evacuating the facility, infant care and development, infant discipline, drug and alcohol abuse, and human sexuality and AIDS prevention by including staff in instructional programs attended by the adolescents.

§ 3A:56-10.4 Case management requirements

(a) The home shall develop, implement and maintain on file a written case management plan for each adolescent and her infant.

(b) The home shall form a case management planning team that is responsible for the development of a case management plan for each adolescent and infant. The team shall consist of each of the following:

1. Staff members representing the clinical or social work component;

2. Staff members representing the child care component;

3. Staff members representing the administration of the home, if necessary;

4. Representatives from the adolescent's responsible school district and/or current school district, if necessary;

5. A representative from the Division or other placing agency;

6. The adolescent's family, if applicable;

7. The infant's father or paternal relatives, if applicable; and

8. The adolescent, for the purposes of providing input.

(c) The home shall document in the adolescent's and infant's record that the Division's worker or other placing agency representative, the adolescent's therapist, parents, or legal guardian, and the responsible or current school district, if applicable, were invited to participate as members of the case management planning team and in all subsequent revisions of the plan.

(d) The home shall develop the initial case management plan within 30 calendar days following an adolescent's and/or her infant's admission and shall review or revise the plan at least every three months thereafter.

(e) The case management plan shall include the following information:

1. The name of the adolescent, and infant, if relevant;

2. The date of admission of the adolescent, and infant, if relevant;

3. The date when the plan is developed or revised;

4. The names and titles of all persons attending the development and review meeting;

5. The adolescent's plan for and receipt of medical and dental care;

6. The infant's plan for and receipt of medical care, and dental care if the infant is three years of age or older;

7. Documentation that a referral to the Supplemental Feeding Program for Women, Infants, and Children (WIC) or other equivalent program was made and that any necessary follow up was done, or documentation that the adolescent or infant was ineligible for WIC or other equivalent program;

8. The adolescent's social, familial, emotional and behavioral strengths and weaknesses;

9. An assessment of the interest in the unborn child or child by the father, including a notation of whether the infant's paternity has been legally established;

10. An assessment of the adolescent's parenting capabilities including but not limited to the adolescent's ability to feed and play with her infant, provide for her infant's grooming, provide medical care, and use child care responsibly, if applicable;

11. An assessment of the adolescent's academic progress, including a report of attendance and grades obtained within 30 calendar days of the case planning meeting;

12. An assessment of the health and development of the infant, including available developmental assessments from health examinations;

13. Specific treatment goal(s) in each program area and a projected time frame for completing each goal;

14. The name of the person responsible for the implementation of each treatment goal;

15. Techniques to be used to achieve each treatment goal;

16. Criteria to be used to determine whether each treatment goal is achieved;

17. A notation of progress made from any previous plan;

18. Documentation of efforts to achieve timely discharge and ongoing discharge planning, including, but not limited to, services needed by parents or other persons to whom the adolescent will be discharged; and

19. Documentation of how the adolescent is being prepared for self-sufficiency. This documentation shall include but not be limited to instruction in:

i. Food preparation, including participation in preparing at least one meal a week and training in food shopping at least once a month;

ii. Budgeting and money management, including but not limited to discussion of standard deductions from a paycheck, costs for housing and transportation and how to open and use a savings and checking account; and

iii. Career planning and job training, including but not limited to discussion of entry level requirements for job openings in the community and assistance in obtaining the qualifications for these positions.

(f) The home shall send to the Division's worker or other placing agency a copy of the case management plan and any revisions to it within 30 calendar days after the planning meeting and retain a copy of the correspondence in the adolescent's and infant's record.

(g) The home shall explain to the adolescent, her parents, and all persons responsible the adolescent's and infant's case management plan and any revisions to it. If the home does not explain the adolescent's and infant's case management plan to the adolescent's parents, the home shall document in the adolescent's case record the reasons that the plan was not explained to the parents.

(h) The home shall provide and monitor all services specified in the case management plan and document the rationale for any deviations from the most recent case management plan in the adolescent's and infant's record.

(i) When an adolescent mother expresses interest in surrendering her infant for adoption, the home shall:

1. Explain to the adolescent mother the implications and process of adoption;
2. Notify the Division's worker or other placing agency;
3. Notify the adolescent's parent or legal guardian, if applicable; and
4. Provide the adolescent with information in order to contact legal counsel if she so chooses.

§ 3A:56-10.5 Discharge planning requirements

(a) For discharges that can be anticipated at least 30 calendar days ahead of time, the home shall develop a plan with the Division's worker or other placing agency at least 30 calendar days before the adolescent's or infant's discharge. The plan shall specify the following information:

1. The date of admission;

2. The anticipated date of discharge;

3. Details of the events and circumstances leading to the decision to discharge;

4. The name and address of the individual or agency to whom the adolescent or infant will be discharged and the rationale for planning a discharge to that individual or agency;

5. An assessment of the adolescent's continuing needs including, but not limited to, consideration of health care, behavior management and educational or vocational training; and

6. An assessment of the infant's continuing needs including, but not limited to, consideration of health care and child care and referral to the Supplemental Feeding Program for Women, Infants and Children (WIC) or other equivalent program.

(b) For discharges that were not anticipated at least 30 calendar days ahead of time, the home shall send the Division's worker or other placing agency a written plan at least 10 calendar days prior to the adolescent's or infant's discharge. The plan shall specify the following information:

1. The date of admission;

2. Details of the events and circumstances leading to the discharge;

3. Efforts made to locate a runaway, if relevant;

4. An assessment of the adolescent's continuing needs including, but not limited to, health care, behavior management and educational and vocational training;

5. An assessment of the infant's health and child care needs, if relevant; and

6. Recommendations for providing follow-up services in the adolescent's or infant's new environment, including consideration of whether the adolescent or infant would be eligible for WIC or other equivalent program.

(c) For emergency discharges that result in the immediate placement of the adolescent or infant in a facility such as a detention center, hospital, psychiatric facility or any other placement outside the home, the home shall notify the Division worker or other placing agency by the next working day by telephone. The home shall send a written discharge plan within 10 days after the adolescent's or infant's discharge. This plan shall specify the information outlined in (b)1 through 6 above.

(d) In addition, for discharges that can be anticipated at least 30 days in advance, on the day of discharge the home shall provide the individual or agency to whom the adolescent or infant or both are being discharged with a list of current prescribed medications and at least a two-week supply of each medication. The home or agency shall secure and maintain on file the signature of the receiving individual attesting to receipt of the list of medication(s) and the two-week supply.

(e) In addition, for discharges that were not anticipated at least 30 calendar days in advance and for emergency discharges, the home or agency shall provide a list of current prescribed medication, make a good faith effort to provide at least a 24-hour supply of medications, and document in the child's record the attempt to comply with (d) above.

§ 3A:56-10.6 Services regarding paternal involvement

(a) The home, in conjunction with the Division or other placing agency, shall explain to the adolescent mother:

1. The benefits of establishing paternity for her infant and her options for establishing paternity;

2. Information about the procedures for establishing paternity;

3. How to deal with future questions her infant may have about his or her father;

4. How to manage visitation arrangements between her infant and the infant's father; and

5. That establishing paternity is not a condition for remaining in the home.

(b) The home shall discuss the topics specified in (a) above prior to the discharge of the adolescent mothers in individual or group meetings with adolescent mothers and assist the adolescent in establishing paternity if she so requests.

(c) Unless it is contraindicated by the Division's worker, when the infant's father is known and the adolescent mother agrees, the home shall attempt to arrange contact with him to discuss his interest in his child.

(d) The home shall allow the fathers of infants residing in the home to attend parenting classes provided by the home.

§ 3A:56-10.7 Services to the adolescent's family

Unless it is contraindicated by the Division's worker, the home shall attempt contact with the adolescent's parents, or other adult relatives who are responsible for the adolescent if the parents are not available, to discuss the case management plan.

§ 3A:56-10.8 Parenting education

(a) The home shall have a written curriculum or guidelines for providing parenting education that shall include, but not be limited to, the following topics:

1. Infant and child development including alternatives to punishment and options for toilet training;

2. Age-appropriate stimulation, games and other recreational activities for children;

3. Providing for child care;

4. Health and nutritional care including an explanation of the Supplemental Feeding Program for Women, Infants and Children (WIC);

5. Relationships with the adolescent mother's family;

6. Dealing with feelings about the adolescent's relationship with the infant's father;

7. Options for placing the infant in a separate foster care placement or for adoption;

8. Safe sleep positioning and awareness of potential hazards in sleeping areas;

9. Post-partum depression; and

10. Proper installation of all car seats (child passenger restraint systems) utilized at the home, as well as an overview and information on different car seats that may be utilized.

(b) The home shall provide parenting education on a group or individual basis to each adolescent.

(c) The home shall provide each adolescent at least one hour of parenting education each week until the home documents that the adolescent has mastered skills or resolved issues specified in (a) above.

(d) The home shall involve the adolescent in shopping for her infant's clothes and other necessities.

(e) The home shall provide information to the adolescent on preventing child abuse and neglect, including, but not limited to:

1. Discussion of mandatory reporting;

2. How to identify the reported abuse and neglect; and

3. Resources to help parents avoid abusing or neglecting their children.

§ 3A:56-10.9 Infant stimulation

(a) The home shall ensure that all infants under three months of age are held and spoken to, or placed in a position to observe group activity when they are awake during daytime hours.

(b) The home shall ensure that infants up to six months of age are held by their mother or staff members throughout all feedings and that older infants are held if they are incapable of holding a bottle on their own.

(c) The home shall ensure that all infants have at least one toy that is accessible to them in their bedrooms.

(d) The home shall ensure that when adolescent mothers are in school or working, their infants are cared for, either in the home, in a licensed child care center, or in a registered family child care home.

(e) Homes that provide services to adolescent mothers and infants between three and 18 months of age shall ensure that the adolescent mothers engage in at least four of the following activities with their infants for at least a total of 45 minutes each day:

1. Sensory activities;
2. Language activities;
3. Manipulative activities;
4. Building activities;
5. Large muscle activities; or
6. Music activities.

(f) Homes that provide services to adolescent mothers and infants older than 18 months of age shall ensure that adolescent mothers engage in at least three of the following activities with their child for at least a total of 45 minutes each day:

1. Language activities;
2. Science and math activities;
3. Manipulative activities;
4. Large muscle activities;
5. Building activities;
6. Art activities; or
7. Music activities.

(g) The home shall ensure that television watching is not used as a substitute for mother-child interaction.

§ 3A:56-10.10 Infant toys and equipment

(a) The home shall only use infant and play equipment that is sturdy and of safe construction, non-toxic and free of hazards.

(b) The home shall have a choker tube to ensure that all parts of all toys used by infants under three years of age are large enough so they can not be swallowed by the infants.

(c) The Office of Licensing may also require the home to take other necessary precautions to promote toy and equipment safety in keeping with recommendations of the United States Consumer Product Safety Commission.

§ 3A:56-10.11 Recreation

(a) In addition to the requirements specified in N.J.A.C. 3A:56-6.8, the home shall encourage each adolescent to use her leisure time productively by documenting in the adolescent's case management plan the home's efforts to:

1. Inform the adolescent of appropriate activities for herself and her infant in the community;

2. Teach the adolescent how to manage time and money to be able to participate in recreational activities; and

3. Teach the adolescent how to use public transportation so she and her infant can go to activities in the community.

(b) The home shall organize monthly outings or planned group activities within the home for adolescents and their infants.

§ 3A:56-10.12 Money and allowance

(a) The home shall provide opportunities for all adolescents to earn an allowance, unless the adolescent is receiving Temporary Assistance for Needy Families (TANF) benefits.

(b) The home shall not require an adolescent to assume responsibility for expenses for her care or that of her infant, except for amounts needed to pay for damages done to the home by the adolescent or her infant.

1. When an adolescent damages the home's property, the home shall verify who damaged the property in an incident report before requiring the adolescent to pay restitution.

2. When an infant damages the home's property, the home shall verify who damaged the property and that the damage resulted from a lack of supervision by the adolescent mother, before requiring the adolescent mother to pay restitution.

3. The restitution payments shall not exceed 50 percent of an adolescent's weekly income from allowance and earnings.

4. Adolescents who are working or have a savings account shall have the option to make a lump sum payment for intentional damages.

5. The home may offer the adolescent the option of performing additional chores in lieu of restitution payments.

§ 3A:56-10.13 Visiting and communication

(a) The home may ensure that the adolescents and infants are allowed to have regular contact with family members, including the infant's father.

1. The home shall designate hours for family visits provided that there are opportunities for families to visit each week.

2. The home may limit family members' visits to designated places within the home provided that family members visiting with the infant have access to equipment and toys that can foster communication with the infant.

(b) The home shall develop a visiting policy and explain the visiting policy to the adolescent and her parent(s) at intake. The visiting policy shall specify:

1. How visiting may be arranged;

2. That family visits shall not be denied for an adolescent's infraction of rules, but may be denied as part of a case management plan after consultation with the Division's worker or other placing agency;

3. That family members who are under the influence of drugs or alcohol shall not be allowed to transport the adolescent or her infant;

4. That the adolescent and infant may visit with representatives from the Division or other placing agency upon request and that these visits shall not be denied for any reason;

5. The hours when an adolescent may visit with friends and whether the adolescent's visits with friends may be curtailed for infraction of the rules;

6. That the home may overrule an adolescent's arrangements for leaving her infant with persons living outside the home; and

7. That family members, including the infant's father, shall not be denied visitation unless the home documents show they pose a risk to the infant or adolescent.

§ 3A:56-10.14 Behavior management

(a) Staff members shall follow all the requirements as specified in N.J.A.C. 3A:56-6.14.

(b) The home shall assign responsibility for the discipline, control, and supervision of adolescents to staff members and not delegate that responsibility to other adolescents.

(c) The home shall prohibit adolescents from using the punishments specified in N.J.A.C. 3A:56-6.14 on their own infants or on another infant for whom they are caring.

(d) The home shall ensure that no staff member or adolescent mother disciplines an infant for refusing to eat or sleep, or for crying or soiling.

§ 3A:56-10.15 Comprehensive health plan for pregnant adolescents

(a) The home shall ensure that, in addition to the provision of routine health care as specified at N.J.A.C. 3A:56-7.2, all pregnant adolescents receive comprehensive prenatal care including, but not limited to:

1. Monthly visits to an obstetrician or certified nurse mid-wife during the first 28 weeks of gestation;

2. Biweekly visits to an obstetrician or certified nurse mid-wife from the 29th to 36th week of gestation;

3. Weekly visits to an obstetrician or certified nurse mid-wife from the 36th week of gestation until delivery;

4. Child birth classes provided by a registered nurse or child birth educator; and

5. A postpartum visit within six weeks of delivery.

(b) The home shall ensure that pregnant adolescents make up missed medical appointments.

(c) The home shall refer all pregnant adolescents to the Supplemental Feeding Program for Women, Infants and Children (WIC) or other equivalent program and make necessary follow-up, or document that the pregnant adolescent was ineligible for WIC or other equivalent program.

(d) The home shall ensure that arrangements for the birth of the infant are made by the end of the first trimester. If the adolescent enters the home after the first trimester, the home shall ensure that arrangements for delivery are made by the second prenatal visit.

1. The home shall ensure that a system is established to provide background medical information on the pregnant adolescent to the hospital identified for delivery or at the birthing center identified for delivery.

2. The home shall document that delivery arrangements have been made by recording the name and address of the selected hospital or birthing center in:

i. The adolescent's record; or

ii. As part of the administrative record.

(e) The home shall ensure that a staff member or volunteer accompanies the adolescent to the hospital or birthing center when she is ready to deliver and that the staff member or volunteer remains with the adolescent until health care personnel are assigned to her or longer as needed.

§ 3A:56-10.16 Comprehensive health plan for infants

(a) The home shall ensure that infants were referred to the Supplemental Feeding Program for Women, Infants and Children (WIC) or other equivalent program and take necessary follow-up, or document that the infant was ineligible for WIC or other equivalent program.

(b) Unless contraindicated by the physician, the home shall ensure that the adolescent mothers adhere to the following for infants:

1. Routine health care and testing, including vision and hearing screening, according to the American Academy of Pediatrics' current recommended schedule at www.aap.org;

2. A developmental assessment conducted between five and six months of age, between 11 and 12 months of age, at 24 months of age, and annually thereafter until age five; and

3. A dental examination by 12 months of age and semi-annually thereafter.

(c) Unless contraindicated by the physician, the home shall ensure that all infants, toddlers, and children receive childhood immunizations and boosters within the established age ranges as currently recommended by the Center for Disease Control's (CDC) Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP) and established by the New Jersey Department of Health for enrollment in child care or school at www.state.nj.us/health.

(d) The home shall ensure that each infant has a designated primary care physician.

§ 3A:56-10.17 Comprehensive health care for adolescent mothers who are not pregnant

The home shall ensure that all adolescent mothers who are not pregnant are provided routine health care as specified at N.J.A.C. 3A:56-7.2, as well as annual gynecological examinations.

§ 3A:56-10.18 Care of sick infants

(a) When an infant at the home has any illness or symptom of illness including, but not limited to, those specified below, the home shall ensure that the adolescent mother or staff contacts a licensed physician:

1. Severe pain or discomfort or unusual fussiness;

2. Acute diarrhea, characterized as twice the child's usual frequency of bowel movements with a change to a looser consistency within a period of 24 hours, or bloody diarrhea;

3. Two or more episodes of acute vomiting within a period of 24 hours;

4. Elevated oral temperature of 101.5 degrees Fahrenheit or over or axillary temperature of 100.5 degrees Fahrenheit or over in conjunction with behavior changes;

5. Lethargy that is more than expected tiredness or unusual drowsiness;

6. Yellow eyes or jaundiced skin;

7. Red eyes with or without discharge;

8. Infected, untreated skin patches;

9. Difficult or rapid breathing or severe coughing;

10. Skin rashes in conjunction with fever or behavior changes or rashes of unknown origin;

11. Skin lesions that have not been treated by a health care provider;

12. Mouth sores;

13. Stiff neck with fever and no muscular explanation; or

14. Seizure.

(b) The home shall follow the physician's advice about whether to permit the infant who is ill to have contact with other infants.

§ 3A:56-10.19 General medical practices

(a) The home shall ensure that any medical, dental, psychological or psychiatric treatment or medication administered to an adolescent is explained to the adolescent.

1. The home shall ensure that any medical, dental, psychological or psychiatric treatment or medication administered to an infant is explained to the adolescent mother.

(b) When serious accidents or illnesses occur to an infant, the home shall take necessary emergency action and notify the adolescent, the adolescent's parents, if applicable, the Division's worker or other placing agency, and the Office of Licensing immediately.

(c) When serious accidents or illnesses occur to an adolescent, the home shall take necessary action and notify the adolescent's parents if she is under 18 years of age, the Division's worker or other placing agency, and the Office of Licensing immediately.

§ 3A:56-10.20 Medication

(a) The home shall ensure that adolescents use only prescription and non-prescription medication that is authorized by a physician and then only as prescribed or directed.

1. The home shall permit adolescents to administer medication to their infants and themselves, unless the physician, psychiatrist or psychologist advises otherwise; in such cases the home shall document the reasons in the adolescent's record.

2. The home shall ensure that adolescents follow the advice of the infant's physician for administering medication to their infants.

3. The home shall supervise the adolescent's administration of all medication she gives to her infant and may require the adolescent to record the information specified in (b) below.

(b) The home shall maintain a medication log book that contains the following information:

1. Name of adolescent or infant receiving medication, whether prescription or non-prescription;

2. Type of medication, dosage, and intervals between dosages;

3. What to do if a dosage is missed;

4. Reason for medication;

5. Date and time medication was administered;

6. Possible side effects of the medication, if any; and

7. Signature and title of staff member or adolescent dispensing medication.

(c) The home shall ensure that the following procedures for storage are followed:

1. Homes shall keep prescription and non-prescription drugs in a locked cabinet, or, as needed, a locked container in a refrigerator that is inaccessible to infants;

2. External drugs and internal drugs shall be stored in separate locked shelves;

3. All outdated stocks and prescriptions no longer in use shall be disposed of safely, as specified in N.J.A.C. 3A:56-7.4;

4. The telephone number of the regional poison control center shall be posted at all medication-dispensing stations and by each telephone; and

5. Medical supplies shall be stored in an area accessible to staff members at all times.

(d) In situations where the home determines that an adolescent is capable of self-administration of prescription birth control-related supplies, the home may allow the adolescent to maintain prescription birth control-related supplies among her personal possessions, provided that the home:

1. Provides a locked cabinet or box for storage; and

2. Documents the rationale and arrangements for the adolescent to maintain prescription birth control-related supplies.

§ 3A:56-10.21 Environmental sanitation requirements for disinfecting

(a) The home shall first wash with soap and water and then disinfect those items specified below with a solution that shall either be:

1. A commercially prepared disinfectant that indicates it kills bacteria, viruses and parasites. This solution shall be used in accordance with label instructions; or

2. A self-made solution consisting of one-quarter cup of household bleach to each gallon of water (one tablespoon per quart), which shall be prepared daily and placed in a labeled, sealed container. This self-made solution shall not be utilized with those items specified in (d)2 below.

(b) The home shall ensure that the following equipment, items or surfaces are washed and disinfected after each use:

1. Toilet training chairs that have first been emptied into a toilet unless each infant has his or her own toilet training chair;

2. Sinks and faucets used for handwashing, if the sink is also used for rinsing a toilet training chair;

3. Diapering surfaces, used by more than one infant;

4. Toys mouthed by infants before being given to another infant;

5. Mops used for cleaning; and

6. Oral and rectal thermometers.

(c) The home shall wash and disinfect the following items at least daily:

1. Toilets and toilet seats used by more than one infant;

2. Diaper pails and lids used by more than one infant;

3. Drinking fountains;

4. Water table and water play equipment;

5. Play tables; and

6. Smooth surfaced non-porous floors in areas used by infants.

(d) The home shall wash and disinfect the following items at least weekly, and before use by another infant:

1. Cribs, cots, mats, playpens or other sleeping equipment approved by the Office of Licensing; and

2. Sheets, blankets or other coverings.

(e) The home shall wash and disinfect tables used by the infant for eating before each meal.

(f) Homes that maintain outside sandboxes or play areas containing sand shall ensure that:

1. Only asbestos-free sand is used; and

2. The sand is maintained in a safe and sanitary manner.

§ 3A:56-10.22 Personal hygiene requirements

(a) The home shall ensure that adolescents and staff members wash their hands with soap and running water immediately:

1. Before preparing or serving food;

2. After diapering a child;

3. After toileting;

4. After assisting a child in toileting;

5. After caring for a child who appears to be sick;

6. After handling animals or their equipment or after coming in contact with an animal's body secretions; and

7. After coming into contact with blood, fecal matter, urine, vomit, saliva, nasal secretions, or other body fluids or secretions.

(b) The home shall ensure that adolescents or staff members:

1. Change each infant's diaper when wet or soiled; and

2. Wash and dry each infant's bottom during each diaper change with an individual disposable wash cloth, paper towel or disposable diaper wipes.

(c) The home shall ensure that soiled diapers are placed in a closed container that is lined with a leakproof or impervious lining.

1. Disposable diapers shall be removed from the home daily and placed in a closed container that is outside the building and used for refuse collection.

2. Non-disposable diapers shall be stored and laundered separately for each child except when the diapers are laundered by a commercial laundry service.

§ 3A:56-10.23 Health education and physical care for adolescents and infants

(a) The home shall ensure that adolescents receive training in personal care, hygiene, and grooming habits.

1. The home shall discuss the physiological changes experienced during adolescent pregnancy and childbearing with adolescents in the home.

2. The home shall instruct adolescents about sexually responsible behavior, including how to protect themselves from pregnancy and sexually transmitted diseases, including AIDS.

3. The home shall instruct all adolescents about the health consequences of cigarette smoking and alcohol and drug use.

(b) The home shall ensure that each adolescent bathes and grooms her infant daily, and provides other personal hygiene services that are necessary to meet the infant's needs.

1. The home shall give each adolescent and infant individual towels and washcloths.

2. The home shall ensure that soap and toilet paper are available for the adolescents and infants at all times.

§ 3A:56-10.24 Food and nutrition for infants

(a) In addition to the requirements specified in N.J.A.C. 3A:56-6.11, the home shall ensure that each adolescent mother obtains and follows a written plan developed with the infant's health care provider regarding the feeding schedule, specific formula, nutritional needs and introduction of new food for each infant.

1. The home shall maintain on file the feeding schedule of each infant residing in the home in the infant's record.

2. The home shall ensure that the adolescent makes the feeding schedule available to all of the infant's caregivers.

§ 3A:56-10.25 Life skills development

(a) The home or agency shall ensure that the adolescent mothers receive instruction and experience in the following:

1. Meal planning and meal preparation;
2. Food shopping;
3. Locating affordable housing;
4. Securing appropriate medical and dental services;
5. Utilization of public transportation;
6. Home safety guidelines including:
    i. Notifying the local public service or utility company when gas leaks are suspected;
    ii. Keeping the child away from a hot stove;
    iii. The dangers of open windows when infants are present;
    iv. The appropriate methods to rid the home of pests;
    v. Fire prevention;
    vi. Contacting the appropriate community agency when an emergency occurs; and
    vii. Baby-proofing the home;
7. Banking; and
8. Applying for public assistance and/or job/vocational training.

(b) The home or agency shall document in the adolescent mother's record that she has received the training in (a) above.

Title 3A, Chapter 57 -- Standards for Shelters for Victims of Domestic Violence

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 30:14-1 et seq., specifically 30:14-5, and 37:1-12.1 et seq., specifically 37:1-12.3.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

Effective September 4, 2018.

See: 50 N.J.R. 1937(a).

Chapter 57, Standards for Shelters for Victims of Domestic Violence, was recodified from N.J.A.C. 10:130, Standards for Shelters for Victims of Domestic Violence, by administrative change, effective January 3, 2017. As part of the recodification, attendant technical changes were made to the rule text concerning cross-references, agency names, addresses, etc. See: 49 N.J.R. 98(a).

§ 3A:57-1.1 Purpose

The Department recognizes that seeking and receiving shelter care is a trying emotional experience for victims of domestic violence. The purpose of shelters for victims of domestic violence is to provide an environment in which the client and the family experience the least amount of disruption possible through the provision of "a home setting," to the extent possible; a clean and safe environment; and protection from further violence.

§ 3A:57-1.2 Scope; applicability

This chapter shall apply to all shelters for victims of domestic violence in the State of New Jersey. Shelters for victims of domestic violence shall comply with the provisions of this chapter and with the provisions of N.J.A.C. 5:15, Rules Governing Emergency Shelters for the Homeless, which is incorporated herein by reference.

§ 3A:57-2.1 Client access to shelter

(a) A shelter shall have a 24-hour hotline and emergency support services available at all times.

(b) A shelter shall have a 24-hour entry available.

§ 3A:57-2.2 Shelter site

A shelter shall provide a residential area, which provides safe refuge for victims of domestic violence. A shelter shall also offer non-residential services**,** including; but not limited to 24**-**hour hotline, advocacy, and supportive counseling services. These services may be located at the shelter site or in a separate facility, which can assist victims of domestic violence who have not made a decision to leave their home, or who have found other accommodations, but who nevertheless have a need for other domestic violence supportive services provided by the shelter.

§ 3A:57-2.3 Physical plant

(a) A shelter shall undergo a Department of Community Affairs health and safety inspection at least every two years.

(b) A shelter shall be certified as lead free and maintained in accordance with the lead-safe maintenance requirements established in N.J.A.C. 5:15, Rules Governing Emergency Shelters for the Homeless.

(c)To the extent possible, an area of the shelter shall be designated for private communications with lawyers, counselors, etc.

§ 3A:57-2.4 Staff requirements

(a) A shelter shall require all staff and job applicants and prospective volunteers to make a full, written disclosure of his or her criminal convictions, if any. Should a criminal conviction be disclosed, the shelter operators shall apply the provisions of the Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq., in determining whether to hire the job applicant or retain the staff member or volunteer.

(b) To the extent feasible and in an effort to accommodate victims from diverse communities, one or more of the shelter personnel shall be fluent in the language(s) of the non-English speaking population of the shelter.

§ 3A:57-2.5 Domestic violence shelter services

(a) A shelter shall provide the following core services to victims of domestic violence:

1. Twenty-four-hour shelter entry;

2. Twenty-four-hour hotline and information referral;

3. Legal, financial and housing advocacy services;

4. Supportive counseling;

5. Community education, training and awareness;

6. Community networking; and

7. Children's services.

(b) If requested, a shelter shall arrange referrals to appropriate authorities or agencies, to provide the following services to victims of domestic violence:

1. Emergency medical care;

2. Emergency legal assistance;

3. Emergency psychological support and counseling; and

4. Information regarding education, welfare**,** housing, job training, and other available social services.

(c) The shelter staff shall advocate on behalf of the clients to assist them with receiving equitable**,** uniform, and emergency services from agencies, including, but not limited to, the Department of Children and Families, the Department of Education, State and local public assistance agencies and local educational agencies, including temporary housing agencies, as well as other appropriate governmental and community-based groups or agencies.

(d) A shelter shall have ongoing individual and group counseling programs with licensed clinicians or mental health clinicians, or access to these services.

(e) Shelters shall assure that nutritionally adequate meals are available to all shelter residents and accommodate special religious or medically indicated dietary needs.

(f) Shelters shall provide supportive recreational programs for children residing within the shelter.

(g) Shelter programs shall foster positive, non-violent, parenting skills.

§ 3A:57-2.6 Educational services

(a) All shelters shall advocate for the provision of educational services for all children residing within the shelter. This shall be accomplished in accordance with the Public School Education Act of 1975. The shelter shall advocate for the following for all children residing in the facility:

1. Education in the home school;
2. Education in the school district in which the shelter is located;
3. Education in the district in which the family is located; or
4. Education on a tutorial basis within the shelter.

§ 3A:57-2.7 Release of a minor

No shelter providing care for a minor who was in actual custody, guardianship, or the custody of a parent or other person at the time such person applied for shelter services, shall release the minor person to anyone, including the child's other parent or person sharing legal guardianship or custody, without the consent of the person who sought shelter, except as may be otherwise required by court order.

§ 3A:57-2.8 Confidentiality

Information that may reveal the identity or location of a person seeking or receiving shelter services shall not be disclosed, except as otherwise specifically required by law. Information that may identify the location of a shelter for victims of domestic violence shall not be deemed to be a public record pursuant to N.J.S.A. 47:1A-1 et seq., 47:1A-5 et seq., 30:14-13 and 30:14-13.1.

§ 3A:57-2.9 Non-discrimination; clients and employees

A shelter shall not discriminate based on race, creed, color, national origin, nationality, ancestry, age, sex, (including pregnancy), familial status, marital or civil union, domestic partnership status, affectional or sexual orientation, gender identity or expression, as defined at N.J.S.A. 10:5-5rr, atypical hereditary cellular or blood trait, genetic information, liability for military service, mental or physical disability, perceived disability, and AIDS and HIV status, against:

1. Employees; or
2. Clients when providing appropriate residential and other domestic violence services.

§ 3A:57-2.10 House rules

Established written house rules shall be presented to, and signed by, clients upon entering the shelter.

§ 3A:57-3.1 Receipt of revenue by Department

(a) By action of N.J.S.A. 37:1-12.1 and 12.2, and N.J.S.A. 2C:25-29.2, the Department of Children and Families is authorized to receive revenues from additional $ 25.00 fees charged with the issuance of a marriage or civil union license**,** and from the civil penalties imposed on domestic violence offenders, for the purposes of maintaining and establishing shelters for victims of domestic violence and for the continued support of direct services to that population.

§ 3A:57-3.2 Delegation of responsibility to the Department of Children and Families

Responsibility for ensuring that revenues are used according to the provisions of N.J.S.A. 37:1-12.1 et seq. is hereby delegated to the Department of Children and Families**,** by action of N.J.S.A. 9:3A-9.

§ 3A:57-3.3 Purpose of subchapter

The purpose of this subchapter is to assure that the collected funds are available for the continued support of programs serving victims of domestic violence and for the development of new programs. These programs are essential to provide persons who have been subject to or threatened with violence at home with a safe refuge where they can examine alternatives and receive supportive services.

§ 3A:57-3.4 Scope of subchapter

This subchapter shall apply to all shelters for victims of domestic violence that receive funds from the collections made through N.J.S.A. 37:1-12.1 et seq. and N.J.S.A. 2C:25-29.2, within the State of New Jersey.

§ 3A:57-3.5 Funding priorities for marriage license fees

Agencies receiving funds from the Department of Children and Families shall be eligible to receive the proceeds of marriage license fee collections. Donor matching will not be required.

§ 3A:57-3.6 Funding priorities for the Domestic Violence Victims' Fund

(a) All moneys deposited in the Domestic Violence Victims' Fund shall be distributed among the Department of Children and Families' domestic violence agencies, specifically for the provision of emergency shelter and related core services to adult victims and their dependent children. Donor matching is not required.

(b) Funding for these programs shall be subject to the following conditions:

1. Allowable expenditures shall be limited to the provision of domestic violence core services, including:

i. Twenty-four hour hotline and emergency response capability;

ii. Twenty-four hour shelter entry;

iii. Legal, financial and housing advocacy services;

iv. Counseling for victims, children and perpetrators of abuse;

v. Community networking;

vi. Community education, training and awareness; and

vii. Children's services.

2. First consideration for funding shall be to ensure compliance with N.J.A.C. 5:15, Rules Governing Emergency Shelters for the Homeless, which require that a minimum of two trained staff be on site in the shelter facility at all times.

3. Programs that meet the licensing requirements regarding staff coverage shall have the discretion to use these funds in any manner designed to maximize existing resources and to ensure the availability of a full array of core services. For example, these funds may be used to offset the costs of shelter operations, staffing expenditures related to the provision of core services and related assistance, and/or any necessary shelter equipment, furnishings and supply purchases that directly or indirectly benefit clients.

4. Annual allotments from the Domestic Violence Victims' Fund shall be made available to programs as set forth herein. The specific funding amounts shall be determined each year by dividing the total amount collected in the Domestic Violence Victims' Fund by the number of eligible recipients. Subsequent allocations shall be made each year as described herein.

§ 3A:57-3.7 Program fiscal responsibility

(a) Funding for shelter programs is contingent on the ability of programs to meet the fiscal and programmatic practices required by the agency's contract with the Department of Children and Families.

(b) All programs applying for or receiving funding under the provisions of this subchapter shall be subject to fiscal and program review by the Department of Children and Families of the requirements of their contracts with the Department.

(c) All emergency residential shelter programs applying for or receiving funding under the provisions of this subchapter shall comply with the provisions of this chapter and with the provisions of N.J.A.C. 5:15, Rules Governing Emergency Shelters for the Homeless.

Title 3A, Chapter 58 -- Children's Partial Care Programs

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 30:9A-10 and 21.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2013 d.135, effective October 11, 2013.

See: 44 N.J.R. 2431(a), 45 N.J.R. 2429(d).

Chapter 58, Children's Partial Care Programs, was recodified from N.J.A.C. 10:191, Children's Partial Care Programs, by administrative change, effective January 3, 2017. As part of the recodification, attendant technical changes were made to the rule text concerning cross-references, agency names, addresses, etc. See: 49 N.J.R. 98(a).

§ 3A:58-1.1 Purpose, scope, and goals

(a) Children's partial care programs provide seriously emotionally/behaviorally challenged youth with a highly structured intensive day treatment program.

(b) Program goals include:

1. Prevention of psychiatric hospitalization of youth at risk of psychiatric hospitalization;

2. Prevention of re-hospitalization of youth who have been psychiatrically hospitalized;

3. Provision of a transition for psychiatrically hospitalized youth from the hospital back into the community; and

4. Provision of services to at-risk children under the age of five years.

(c) Agencies operating children's partial care programs shall:

i. Respect the rights and dignity of youth and family members and when appropriate preserve the family unit;

ii. Foster community living by teaching skills and improving functioning;

iii. Help each youth to realize his or her potential for learning;

iv. Foster healthy interdependence;

v. Help clients develop and use social support systems;

vi. Help clients and their family members or legal guardians learn to manage the client's illness in order to prevent relapse, re-hospitalization, or placement in a restrictive environment;

vii. Empower clients and families to actively participate in treatment and programming and to determine personal and program goals;

viii. Affirm clients' strengths and abilities; and

ix. Encourage and support clients' and families' efforts to help each other.

(d) A provider agency operating a children's partial care program shall comply with the provisions of this chapter and N.J.A.C. 10:190.

(e) No children's partial care program shall operate unless it has secured a license from the Department of Children and Families as a children's partial care program.

§ 3A:58-1.2 Definitions

The words and terms in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Authorized consent" means written authorization to provide services or medical care to a youth from that youth's parent, legal guardian, or other person or entity with the legal authority to provide such authorization.

"Children's crisis intervention services" or "CCIS" means an acute care inpatient psychiatric service, under the auspices of the Department of Health, pursuant to N.J.A.C. 8:33-1.3 and 8:43G-26.

"Children's partial care program" means a day treatment program offering structured activities for youth including activities for daily living, recreation, and socialization activities and other mental health services based upon the needs of the youth. The term "children's partial care program" shall not include health care facilities licensed by the Department of Health.

"Comprehensive assessment" means the assessment of a youth through consideration of psychological, medical, developmental, substance abuse, spiritual, recreational, and vocational components.

"Comprehensive treatment plan" means the formulation of service and treatment goals, objectives, and interventions based on a comprehensive assessment, which shall include psychological, medical, developmental, substance abuse, spiritual, recreational, and vocational components.

"Counseling" means the use of therapeutic methodologies, which enable individuals and families to resolve problems or temporary stress of situations that they have encountered.

"Daily living skills" means the activities which enable a youth to perform functions for every day living, such as basic housekeeping, grooming, dressing, maintaining schedules, social and recreational activities.

"Department" means the New Jersey Department of Children and Families.

"Group counseling" means the use of group processes and supports to develop in individuals the capacity to overcome specific personal problems or problem conditions.

"Level I standards" means those standards, as specified in this chapter, with which a children's partial care program must be in full compliance in order to be granted or to continue to receive a Department license. Level I standards are those standards that relate most directly to client rights, safety, and staffing.

"Level II standards" means all licensing standards, as specified in this chapter, not designated as Level I.

"License" means a Department document which provides the provider agency with the authority to operate a children's partial care program.

"Seriously emotionally/behaviorally challenged" means a youth exhibiting one or more of the following characteristics: behavioral, emotional, or social impairment that disrupts the youth's academic or developmental progress and may also impact upon family or interpersonal relationship. This disturbance shall have also impaired functioning for at least one year or the impairment shall be of short duration and high severity.

"Therapeutic nursery" means a children's partial care program serving children five years of age and younger, offering children age-appropriate structured activities including activities for daily living,

recreation, and socialization activities and other mental health services based upon the needs of the children.

"Treatment setting" means a CCIS unit, psychiatric community home for children, group home, treatment home, residential child care facility, drug/alcohol program, private hospital, or other out-of-home mental health treatment setting.

"Youth" means a person under 18 years of age, but may include persons over 18 and younger than 21 years of age, if eligible to receive partial care services under N.J.A.C. 3A:58-1.5(c).

§ 3A:58-1.3 Population to be served

(a) Agencies operating children's partial care programs shall have policies and procedures that give first priority for admission to youth who are diagnosed as seriously emotionally/behaviorally challenged and meet one or both of the following criteria:

1. Having previously resided in a treatment setting; or

2. By reason of serious emotional/behavioral disturbance, presently at risk of extended out-of-home placement in a treatment setting or of exclusion from the public school.

(b) Youth diagnosed as seriously emotionally/behaviorally challenged who do not meet the criteria in (a)1 or 2 above may be admitted provided that all youth referred who meet the criteria are given first priority for admission.

§ 3A:58-1.4 Program services

(a) Agencies operating children's partial care programs shall provide a comprehensive range of services to address the individual needs of the youth. These programs shall be available daily five days per week. Additional planned activities may be provided during evening or weekend hours or both, as needed.

1. Services shall be available for all youth and provided to the extent required by the individual treatment plan. Evidence of the actual provision of services shall be documented in the clinical record. Services shall include, but need not be limited to, the following:

i. Individual and group counseling and support;

ii. Therapeutic activities to address daily living (ADL) skills, recreation and socialization needs;

iii. Medication management, including counseling, monitoring, and safe storage;

iv. Family support services such as: family therapy, family psycho-education, family supportive counseling, or parenting skills development;

v. Psychiatric assessment;

vi. Case coordination, including obtaining authorizations and consents;

vii. Referral, advocacy, and service linkages, including to drug/alcohol programs, as needed;

viii. Liaison with the educational system, if parents consent; and

ix. Therapeutic milieu activities such as community meetings, behavior management programs, and related programming.

2. For services arranged through non-partial care providers, the partial care program shall provide referral, case coordination, and advocacy for all such services not provided. These service needs and their appropriate provision shall be documented in the clinical record.

§ 3A:58-1.5 Services to children and youth

(a) The agency shall ensure that youth are provided age-appropriate or developmentally appropriate services, and shall implement written policies and procedures that address age grouping of available services for nursery (ages three to five), latency (ages five to 10), pre-adolescent (ages 10 to 12), adolescent (ages 12 to 17), and aging-out youth (above age 17). In those cases where it is determined that a youth receives services not with his or her chronological age group, written documentation shall be maintained in the youth's clinical record as to the justification for this decision.

(b) The agency shall develop and implement written policies and procedures for transitioning youth from one age grouping to another age grouping, as well as for transitioning youth to adult services.

(c) The agency shall be permitted to provide partial care services to youth who attain age 18 provided that such services are indicated on the treatment plan, and adequately justified as to need for continued services.

§ 3A:58-1.6 Admission

(a) Agencies operating children's partial care programs shall develop a written admission policy. The policy shall include, but not be limited to, the following:

1. Admission criteria (both inclusionary and exclusionary);

2. Referral procedures, which identify any service area or geographic restrictions, contact procedures, scheduling of intake interviews, and procedures for obtaining required information;

3. Procedures for obtaining authorized consent(s) for treatment; and

4. Procedures, consistent with laws and rules regarding health privacy and protected health information, for notifying applicants, legal guardian(s), families, and referral sources of admissions decisions, rationale for such decisions, and any information related to service initiation. Such notification shall be made within seven calendar days of the intake interview.

§ 3A:58-1.7 Intake

(a) Agencies operating children's partial care programs shall develop policies and procedures governing the recording of intake information. Intake information shall include, but not be limited to, the following:

1. Client's identifying information (for example, address, telephone number, emergency contact);

2. Presenting problem, reason for referral as perceived by client, parents, guardian, and significant others, and potential treatment goals and objectives;

3. A brief case history of illness including services received at the agency and elsewhere;

4. A psychiatric diagnosis (if applicable);

5. Indicators of characteristics that identify high risk to service providers in the provision of treatment to the youth;

6. Medical history and medication information;

7. History of drug or alcohol abuse;

8. Current mental health service providers;

9. Other service providers;

10. Family information;

11. Social supports;

12. Relevant educational information; and

13. Legal information relevant to treatment.

§ 3A:58-1.8 Treatment planning

(a) Agencies operating children's partial care programs shall develop treatment plans based on the clinical needs of the youth.

1. Based on the information gathered through the intake process, a member of the professional staff shall complete an assessment of the clinical needs of the youth. This assessment shall include: treatment recommendations, immediate needs, preliminary goals or objectives, and initial interventions. This assessment shall serve as the initial treatment plan completed within 72 hours until the comprehensive treatment plan is developed. This assessment shall be entered into the clinical record within 14 calendar days of the child's admission.

2. Prior to the development of the comprehensive treatment plan, a comprehensive assessment shall be conducted, concluding with findings and recommendations and shall be documented in the clinical record. This assessment shall include, but not be limited to, the following factors relating to each individual youth:

i. Motivation (for example, willingness to participate in the program);

ii. Social and recreational (for example, ability to make friendships, communication skills, hobbies);

iii. Emotional and psychological (for example, mental status, history of abuse, understanding of illness, coping mechanism) factors indicating high risk;

iv. Medical and health (for example, allergic reactions, medication information, and history);

v. Educational and vocational (for example, task concentration, motivation for learning);

vi. Daily living activities (for example, transportation, budgeting, self care, hygiene);

vii. Environmental supports (for example, housing, income);

viii. Social, cultural, and spiritual supports (for example, family, friends);

ix. Substance abuse and usage; and

x. Strengths and special skills.

3. A comprehensive treatment plan based on the comprehensive assessment shall be developed no later than 30 days after admission to the program. The plan shall be reviewed by appropriate treatment team members at subsequent 90-day intervals.

i. The plan shall address all recommendations included in the comprehensive assessment.

ii. The plan shall contain goals and measurable objectives with projected time frames for completing each goal.

iii. The plan shall contain treatment interventions and frequency of service activities.

iv. Where possible, the plan shall reflect family participation.

v. All other providers providing services to the youth shall be invited to provide input into the treatment planning process.

vi. All team members, including participating family members and youth, participating in the plan development shall sign the plan.

§ 3A:58-1.9 Progress notes

(a) Progress notes shall be written in the youth's record at least weekly.

1. Each weekly progress note shall include:

i. A summary of services provided;

ii. The youth's general level of participation in the program for the week;

iii. The response to and outcome of treatment plan interventions; and

iv. Critical or significant events that have occurred during the week (for example, service coordination, crisis event).

2. The progress notes shall address all elements of the treatment plan and reflect the child's overall progress in the stated goals.

§ 3A:58-1.10 Medication administration

(a) Programs that receive prescribed or non-prescription medication for a child or keep non-prescription medication on hand, and have trained staff to administer the medication, shall record such administration in a medication log book, which shall contain the following information:

1. The name of the child receiving medication;
2. The type of medication, dosage, and intervals between dosages;
3. What to do if a dose is missed;
4. The reason for the medication;
5. The date and time medication was administered;
6. Possible side effects of the medication, if any; and
7. The signature and title of the staff member administering medication.

(b) All prescription and non-prescription medication shall be maintained in a locked cabinet or container, or as needed, in a locked box in a refrigerator. Staff shall ensure that the keys to the locked cabinets, containers, and boxes are adequately safeguarded and maintained and are kept out of the reach of children and youth.

§ 3A:58-1.11 Termination, discharge, and referral

(a) Agencies operating children's partial care programs shall have procedures for termination, discharge, and referral, which ensure that the youth's continuing service needs are met.

1. Discharge criteria shall be documented in the clinical record. These criteria shall specify functional levels to be achieved for successful discharge.

2. Discharge criteria shall be incorporated into the treatment planning process.

3. Prior to discharge, a discharge plan shall be completed that shall address the youth's continuing needs. It shall minimally include an assessment of further need and available resources to meet such needs, referrals and linkages being made where appropriate to meet identified need and any follow-up activities and intervention planned.

4. The youth and family may participate in the development of the discharge plan.

5. Agencies operating children's partial care programs shall have written policies and procedures that address termination. Such procedures shall ensure that all termination decisions are reviewed for appropriateness. Such policies shall include, but not be limited to, actions to be undertaken prior to a termination decision and provisions for documentation of information relative to the termination decision.

6. The discharge summary shall be completed within 14 calendar days of discharge and shall include:

i. The presenting problem;

ii. The start date for services and termination date of services;

iii. The course of treatment;

iv. The reason for termination;

v. Discharge medication;

vi. Discharge diagnosis; and

vii. The discharge plan.

§ 3A:58-1.12 Staffing requirements

(a) Agencies operating children's partial care programs shall employ sufficient numbers of qualified staff to provide the required services.

1. Program staffing shall be based on the clinical needs of the population served. There shall be a written description of the staffing pattern and the roles and responsibilities of staff.

2. For 10 or fewer youths, at least two direct care staff shall be present, except that in those cases where there are five or fewer youths, one staff member may be a volunteer, student intern, or non-direct care staff. For more than 10 youths, an additional direct care staff member must be present for each additional group of five youths or portion thereof.

3. The staffing ratio in (a)2 above shall be maintained when youth are participating in an activity organized by the agency, at a location other than the regular partial care program location, including in the vehicle(s) used to transport the youths to the activity and return from the activity.

i. All vehicles used to transport youth shall have a valid motor vehicle inspection sticker issued by the New Jersey Motor Vehicle Commission (MVC).

ii. All drivers transporting youth shall possess a valid driver's license issued by the MVC or by a contiguous state where the driver resides.

(b) Youth and adults served by the same agency shall have no contact with each other during program time or while being transported by program staff or on program-furnished vehicles.

(c) There shall be a current written schedule for all staff and volunteers providing direct services to youth.

(d) Each program shall have an individual who meets the qualifications of a program director (see N.J.A.C. 3A:58-1.13(b)).

(e) The partial care program shall have sufficient availability of psychiatric services, so that required psychiatric services are available for each youth. Each youth's treatment shall be under the direction of a psychiatrist as reflected by psychiatrist participation in the treatment plan. The youth's treatment may be under the supervision of an advanced practice nurse (APN) as specified in N.J.S.A. 45:11-45 et seq., who is certified in the category of psychiatric/mental health, as reflected in the APN's participation in the treatment plan and supported by a collaborative agreement with the program psychiatrist and joint protocol document as specified in N.J.A.C. 13:37-8.1.

(f) The agency may utilize student interns, non-direct care staff and volunteers. Such individuals shall not substitute for direct care staff or supervisors.

§ 3A:58-1.13 Staffing responsibilities

(a) The responsibilities of the program director shall include, but are not limited to, the following:

1. Planning, identifying and developing children's partial care programs and goals;

2. Providing overall daily management of the children's partial care program;

3. Providing data and other input to the county Children's Inter-Agency Coordinating Council as requested by the Division of Children's System of Care;

4. Participating in case conferences;

5. Ensuring that the children's partial care program is serving the target population;

6. Ensuring that appropriate treatment and discharge plans are developed;

7. Ensuring that client records are maintained;

8. Providing and ensuring adequate supervision of all staff employed by the children's partial care program;

9. Assuring adequate staffing levels are maintained;

10. Developing and implementing orientation and in-service training programs;

11. Preparing service and budgetary records and submitting records to appropriate parties;

12. Establishing internal and external communication systems so that all staff are apprised of pertinent information;

13. Ensuring the development and implementation of staff orientation, staff development, and in-service programs;

14. Ensuring emergency and crisis capability, including evacuation because of fire or natural disaster;

15. Ensuring compliance with this chapter;

16. Establishing and maintaining formal and informal affiliation with other needed service providers; and

17. Ensuring that intake assessments are completed.

(b) The program director minimally shall have:

1. An earned master's degree in family therapy, psychology, counseling, social work, or other related field from an accredited college or university; and

2. Three years' experience in the provision of youth mental health services, at least one of which shall have been in a supervisory capacity.

(c) Agencies operating children's partial care programs shall have access to a psychiatrist whose duties include, but are not limited to, the following:

1. Evaluating, diagnosing, prescribing, and administering medication to program clients;

2. Providing information and education on medication needs, usage, and side effects to clients and family;

3. Monitoring clients' responses to prescribed medication;

4. Providing consultation to program staff as appropriate;

5. Providing medical direction to case assessment, treatment plans and service provision;

6. Conducting initial and subsequent psychiatric assessments and evaluations;

7. Providing recordkeeping in an accurate and timely manner as required; and

8. If necessary, maintaining a valid Medicare and Medicaid provider number.

(d) The psychiatrist minimally shall have:

1. A license to practice medicine in New Jersey; and

2. Board eligibility in general psychiatry.

(e) The agency shall assign the following responsibilities to one or more of the direct care professional workers, in accordance with staffing levels required by N.J.A.C. 3A:58-1.12, which shall include, but are not limited to:

1. Providing the following direct care services:

i. Individual and group counseling and support;

ii. Activities to address daily living skills;

iii. Recreational and socialization activities; and

iv. Family services such as referral, advocacy and service linkages;

2. Participating in the development of treatment plans and comprehensive assessments;

3. Participating in the development of discharge plans and making needed referrals;

4. Participating in case conferences;

5. Assisting youth directly to address self-care needs;

6. Providing support to auxiliary staff, student interns and volunteers;

7. Assisting in the development of staff orientation programs; and

8. Maintaining clinical documentation.

(f) The direct care professional worker minimally shall have:

1. A bachelor's or advanced degree in social work, psychology, or related field from an accredited college or university, or a license to practice as a social worker or nurse in New Jersey; and

2. One year's experience in the provision of mental health services to youth.

(g) The agency shall assign the following responsibilities to one or more of the direct care paraprofessional workers, in accordance with staffing levels required by N.J.A.C. 3A:58-1.12, which shall include, but are not limited to:

1. Being responsible for providing direct child care services;

2. Providing case information to the professional direct care worker;

3. Providing input on cases;

4. Recognizing client behavioral signs indicating potential emergency and taking immediate action by reporting to appropriate staff;

5. Assisting clients in preparing for group activities;

6. Assisting clients in preparing for social and recreational activities;

7. Assisting clients in activities that address daily living;

8. Performing light housekeeping duties; and

9. Providing transportation.

(h) The direct care paraprofessional worker minimally shall have:

1. A bachelor's degree from an accredited college or university;

2. An associate's degree from an accredited college or university and two years' experience in the provision of appropriate services to youth; or

3. A high school diploma and five years' experience in the provision of appropriate services to youth.

(i) Agencies operating children's partial care programs may use volunteers, student interns, and non-direct care staff to support the activities of regular paid staff members.

1. Agencies operating children's partial care programs shall ensure that volunteers, student interns, and non-direct care staff who have contact with youth and parents receive proper training and are directly supervised by paid staff members at all times when interacting with youth or families.

2. The agency shall have written policies and procedures governing the activities of volunteers, student

interns, and non-direct care staff. These policies and procedures shall clearly articulate roles, responsibilities, and any activity restrictions.

3. Agencies operating children's partial care programs shall require that references be submitted by prospective volunteer, student intern, and non-direct care staff.

Title 3A, Chapters 59 through 69. (Reserved)

Title 3A, Chapter 70 -- Displaced Homemaker Programs

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 52:27D-43.24c and 52:27D-43.9a.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2017 d.129, effective May 31, 2017.

See: 49 N.J.R. 304(a), 49 N.J.R. 1847(b).

Chapter 70, Displaced Homemaker Programs, was readopted as R.2017 d.129, effective May 31, 2017.

§ 3A:70-1.1 Purpose

The purpose of the Displaced Homemaker Trust Fund is to provide a funding source to support programs for displaced homemakers as described in this chapter and as identified by the Division on Women, pursuant to N.J.S.A. 52:27D-43.20. This chapter governs the disbursement of grants-in-aid from the Displaced Homemaker Trust Fund to these programs.

§ 3A:70-1.2 Scope

This chapter shall apply to each displaced homemaker program that applies for or receives a grant from the Displaced Homemaker Trust Fund.

§ 3A:70-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Commissioner" means the Commissioner of the Department of Children and Families.

"Director" means the Director of the Division on Women, Department of Children and Families.

"Displaced homemaker" means an individual who:

1. Has not worked in the labor force for a substantial number of years;
2. Has, during the years of not working in the labor force, worked in the home providing unpaid services for family members;
3. Was, during the years of not working in the labor force, dependent upon the income of another family member, but is no longer supported by that income; and
4. Is a person who is:
   i. Receiving public assistance because of dependent children in the home, but is within one year of no longer being eligible for that assistance;
   ii. Unemployed or underemployed and experiencing difficulty in obtaining or upgrading employment; or
   iii. At least 40 years of age.

"Displaced Homemaker Trust Fund" means a trust fund administered by the Department, which contains funds from divorce or the dissolution of civil union filing fees pursuant to N.J.S.A. 52:27D-43.19 et seq.

"Division" means the Division on Women, Department of Children and Families.

§ 3A:70-2.1 Program requirements

(a) In order to be eligible for funding, programs must provide, at a minimum, the following services:

1. Job counseling;
2. Job training and placement;
3. Health education and counseling;
4. Financial management;
5. Educational services;
6. Legal counseling and referral; and
7. Outreach and information.

§ 3A:70-2.2 (Reserved)

§ 3A:70-2.3 (Reserved)

§ 3A:70-3.1 Procedures for funding

(a) Notice of each request for proposals (RFP) shall be distributed to all potentially eligible program sponsors known to the Division.

(b) In order to be eligible for consideration, a program sponsor must submit its proposal within the time period indicated in the notice of the RFP.

(c) All proposals shall be reviewed by a committee that shall include representatives who reflect the racial, ethnic, regional, and economic diversity of the State's population.

(d) Awards shall be set at the discretion of the Commissioner, upon the recommendation of the Division, and shall not, in the aggregate, exceed the amount of money collected and deposited in the Displaced Homemaker Trust Fund.

(e) The Department may award a program sponsor an amount different from the amount requested.

(f) The Division shall determine eligibility for programs to receive funding through utilization of the following criteria:

1. The program must provide services listed in N.J.A.C. 3A:70-2.1(a) above;

2. Preference will be given to programs located in a county or region where there are no displaced homemaker programs;

3. The program must have an institutional- or community-based host agency to provide support services and facilities;

4. The program must document the need for its services in the region or community in which it proposes to be located and which is reflective of the racial, ethnic, and economic diversity of the region;

5. The program must demonstrate collaborations and partnerships with workforce programs and education and higher education systems; and

6. The program must have existing employment-related services.

(g) Continuation of the level of funding shall be conditioned upon the compliance of programs with the requirements of the Displaced Homemaker Act; rules promulgated by the Division pursuant to N.J.S.A. 52:27D-43.19 et seq.; the terms and provisions of the grant agreements to be executed between the Division and the aforementioned programs; and the efficient and effective provision of services to displaced homemakers by these programs.

Title 3A, Chapter 71 -- Address Confidentiality Program

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 47:4-4 and 52:27D-43.9a.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

Effective: December 12, 2016.

See: 49 N.J.R. 97(c).

Chapter 71, Address Confidentiality Program, was recodified from N.J.A.C. 5:61, Address Confidentiality Program, by administrative change, effective January 3, 2017. As part of the recodification, attendant technical changes were made to the rule text concerning cross-references, agency names, addresses, etc. See: 49 N.J.R. 98(a).

§ 3A:71-1.1 Purpose and scope

(a) The purpose of this program is to establish uniform Statewide procedures for maintaining the confidentiality of name and address information of victims of domestic violence in the records of State and local government agencies.

(b) The provisions of this chapter shall be applicable to victims of domestic violence and/or individuals who are certified by the Commissioner of the Department of Children and Families as eligible to participate in the Address Confidentiality Program (ACP) and State and local government agencies or nonprofit agencies authorized to assist program participants with ACP applications.

§ 3A:71-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"ACP" means Address Confidentiality Program.

"Address" means a residential street address, school address, or work address of a person.

"Agency" means an office, department, division, bureau, board, commission or other statutory unit of State or local government or any functional subdivision of that agency.

"Application assistant" means an employee of a State or local government agency, or of a nonprofit program that provides counseling, referral or shelter services to victims of domestic violence, who meets the minimum training requirements of 40 hours of domestic violence training and is designated by the agency, and accepted and registered by the Commissioner to assist individuals in the completion of program participation applications.

"Authorized personnel" means an employee of a State or local government agency designated by the Chief Executive Officer of the agency, to process and have access to applications and records, pertaining to program participants.

"Commissioner" means the Commissioner of the Department of Children and Families or his or her designee.

"Department" means the Department of Children and Families.

"Domestic violence" means an act defined under N.J.S.A. 2C:25-19, which has been reported to a law enforcement agency or court.

"Program manager" means the agency employee designated by the Commissioner with responsibility for developing and administering the Address Confidentiality Program in accordance with the provisions of N.J.S.A. 47:4-1 et seq.

"Program participant" means a person and his or her minor children who meet the requirements for admission to the Address Confidentiality Program and are certified by the Commissioner and/or her or his designee as eligible to participate in the Address Confidentiality Program.

"Provider agency" means an agency from which a program participant is applying for or receiving services.

"Public record" means any paper, written or printed book, document or drawing, map or plan, photograph, microfilm, data processed document, sound-recording or similar device, of any copy thereof which has been made or is required by law to be received for filing, indexing or reproducing by any officer, commission, agency, or authority of the State or of any political subdivision thereof including subordinate boards thereof, or that has been received by any such officer, commission, agency or authority of the State or of any political subdivision thereof, including subordinate boards thereof, in connection with the transaction of public business and has been retained by such recipient of successor as evidence of its activities or because of the information contained therein.

"Substitute mailing address" means a mailing address designated by the Commissioner, which is not the program participant's residential address as documented on his or her application but is an alternative address to which mail is to be mailed.

§ 3A:71-3.1 Requirements for participation in ACP

(a) All applicants for participation in ACP must be 18 years of age or over, an emancipated minor, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person.

(b) All applicants shall complete a standard application form and an authorization form, which may be obtained from a local domestic violence program. Information about how to contact the local domestic violence programs can be obtained by contacting the New Jersey Address Confidentiality Program at 1-877-218-9133.

1. The standard application form shall require the provision of the following:

i. The applicant's name;

ii. The names and ages of minor children who will participate in the program;

iii. A statement that an act or acts of domestic violence has been reported to a law enforcement agency and/or court;

iv. The application assistant's name (printed), signature and agency;

v. The applicant's statement that the applicant fears further violent acts from the batterer and that the applicant has relocated to a location unknown to the batterer;

vi. The applicant's new residential address, mailing address (if different from the residential address), work address, and/or school address and telephone numbers for which confidentiality is being requested;

vii. The name(s), address(es), and telephone number(s) of a contact person(s) through whom the ACP may reach, or with whom the program manager may leave a message for, the applicant;

viii. The applicant's designation of the Commissioner as her or his agent for service of process and for receipt of mail;

ix. The applicant's birth date;

x. The applicant's signature; and

xi. The application date.

2. The authorization card form shall require the provision of the following:

i. The applicant's name;

ii. The applicant's birth date;

iii. The applicant's signature; and

iv. The application date.

3. An application shall be deemed filed on the day that it is received by the program manager.

§ 3A:71-3.2 Certification

(a) An applicant who has filed a completed application form shall be certified as a program participant and issue an ACP program participant identification card ("identification card") which shall contain the program participant's name, authorization code, substitute mailing address, certification expiration date, birth date, and signature, and the signature of the Commissioner or his or her designee.

(b) A program participant's certification shall be valid for four years following the date her or his identification card is issued unless the certification is withdrawn, terminated or invalidated before that date, in accordance with N.J.A.C. 3A:71-5.

(c) Program participants shall provide the program manager with notice of any change in name or address at least seven days prior to the effective date of the change in order to maintain his or her certification.

(d) A program participant may apply for recertification every four years in accordance with N.J.A.C. 3A:71-4.

§ 3A:71-4.1 Requirements for recertification

(a) A program participant may renew his or her program participation certification by filing a certification renewal application form and a new authorization card form with the ACP.

(b) The certification renewal application form shall require the provision of the following:

1. The applicant's name;

2. The applicant's statement that the applicant fears further violent acts from the batterer and that the applicant has relocated to a location unknown to the batterer;

3. The applicant's new residential address, mailing address, if different from the residential address, work address, and/or school address, for which confidentiality is being requested;

4. The name(s), address(es), and telephone number(s) of a contact person(s) through whom the ACP may reach, or with whom the program manager may leave a message for, the applicant;

5. The applicant's designation of the Commissioner as her or his agent for service of process and for receipt of mail;

6. The applicant's birth date;

7. The applicant's signature; and

8. The certification renewal application date.

§ 3A:71-4.2 Recertification

(a) Upon the program manager's receipt of the completed certification renewal application form and the new authorization card form, the program manager shall:

1. Certify the program participant for an additional four-year term unless the certification is withdrawn, terminated or invalidated before the date of expiration of the four-year term, in accordance with N.J.A.C. 3A:71-5; and

2. Issue to the program participant a new identification card.

§ 3A:71-4.3 Notice of recertification to provider agencies

When a program participant's certification has been renewed, he or she shall provide written notification of the certification renewal to authorized personnel of provider agencies.

§ 3A:71-5.1 Withdrawal

A program participant may withdraw from the ACP by submitting written notification of withdrawal and her or his current identification card to the program manager. Certification shall be withdrawn on the date of the program manager's receipt of this notification.

§ 3A:71-5.2 Termination

(a) The program manager may terminate a program participant's certification and invalidate her or his authorization card if:

1. The program participant obtains a name change through an order of the court;

2. Any information provided by the program participant on his or her application is false;

3. The program participant no longer resides at the residential address listed on the application and has not provided written notice of the change of address at least seven days prior to the change as required by N.J.A.C. 3A:71-3.2(d); or

4. A service of process document or mail forwarded to the program participant by the ACP is returned as non-deliverable and the program participant cannot be located.

(b) The program manager shall notify the program participant that she or he has been terminated from the ACP by a method most likely to result in contact with the program participant. Such methods may include, but shall not be limited to, telephone contact with the program participant or telephone and/or mail contact with the program participant's designated contact person.

(c) A program participant whose certification has been terminated or invalidated shall have 20 business days in which to appeal the termination, in accordance with N.J.A.C. 3A:71-6.

(d) Following termination of a program participant's certification, the program manager may disclose information contained in the program participant's application.

§ 3A:71-5.3 Notice to State and/or local government agency

The program manager shall provide written notification of the program participant's certification withdrawal, invalidation, expiration or termination to authorized personnel of the appropriate provider agencies within 30 days unless an appeal is received in accordance with N.J.A.C. 3A:71-6.

§ 3A:71-6.1 Filing procedures

(a) A program participant may appeal her or his termination from the ACP by submitting a written explanation disputing the grounds for termination to the Commissioner within 20 business days of receipt of notice of termination from the program. The written explanation shall be accompanied by all information and documentation which supports the appeal.

(b) A copy of the appeal and supporting information and documentation shall be served on the program manager at the time they are submitted to the Commissioner.

§ 3A:71-6.2 Program manager response

Upon receipt of the program participant's appeal and supporting documentation, the program manager shall provide the Commissioner with a written explanation of the grounds for termination within five days. The explanation shall include all information and/or documentation which is relevant to the termination and the Commissioner's consideration of the appeal.

§ 3A:71-6.3 Commissioner's decision

(a) The Commissioner or her or his designee shall review all submissions and render a decision based on the written record within 20 business days of receipt of the appeal.

(b) The Commissioner's decision shall be final.

(c) Where the Commissioner has upheld the certification termination, the program participant will be permitted to remain in the program for 10 business days after notification of the Commissioner's decision has been received.

§ 3A:71-7.1 Request for confidentiality

(a) A program participant may request that a provider agency use the substitute address as her or his residence, work and/or school address when it creates a new record or updates an existing record.

(b) A program participant may request that her or his name and address information be kept confidential.

(c) A program participant requesting that her or his name and address be kept confidential shall show her or his identification card to provider agency personnel in order to verify that she or he is a program participant and to require the provider agency's use of the designated address noted in lieu of her or his actual location.

§ 3A:71-7.2 Provider agency requirements

(a) When a program participant makes a request noted in N.J.A.C. 3A:71-7.1(a) or (b), the provider agency shall maintain the confidentiality of all applications or records and ensure that they are accessible only to authorized personnel, except as provided in N.J.A.C. 3A:71-8 and 9.

(b) When verifying that an individual is an ACP program participant, authorized personnel may make a file photocopy of the program participant's identification card.

1. The identification card shall be returned to the program participant immediately upon completion of the photocopying; and

2. The photocopy shall be kept with the confidential records of the program participant during the time the records are filed and maintained by the provider agency.

(c) A provider agency shall use the designated mailing address requested by the program participant and verified by the ACP identification card unless the provider agency has received a written exemption determination from the Commissioner under the provisions of N.J.A.C. 3A:71-10.

§ 3A:71-8.1 Disclosure

No record or related information maintained under the ACP shall be disclosed by the program manager or provider agencies without the expressed written authorization of the program participant or by court order unless release of the record or information is otherwise provided for by this chapter.

§ 3A:71-9.1 Release to law enforcement agencies generally

(a) An application, record or other information about a program participant may be released to a law enforcement agency if:

1. The program participant gives her or his written authorization;

2. A court order is in effect; or

3. The law enforcement agency making the request has a bona fide statutory or administrative requirement to have access to a program participant's actual address which meets the requirements of N.J.A.C. 3A:71-9.2.

§ 3A:71-9.2 Requests for release of records to law enforcement agencies

(a) A request for the release of an application, record or other information concerning a program participant to a law enforcement agency may be honored only if the law enforcement agency submits by mail, a written request on official letterhead to the Commissioner or his or her designee at ACP, PO Box 717, Trenton, NJ 08602-0717, which contains:

1. The signature of the agency's chief law enforcement officer;

2. The date of the request;

3. The name of the program participant; and

4. The reason or purpose for which the information is requested and its relation to the official duties or responsibilities of the law enforcement agency.

§ 3A:71-9.3 Emergency release of records

The program manager may disclose an application, record or other information about a program participant to a law enforcement agency if she or he determines that an emergency situation exists and that the safety or health of a program participant is imperiled by withholding this information.

§ 3A:71-9.4 Notice of release to program participant

Unless specifically prohibited by court order, the program manager shall immediately notify the program participant of any disclosure of information made under this subchapter and shall provide the program participant with a copy of the information disclosure request.

§ 3A:71-9.5 Confidentiality of records released

Program participant information disclosed to a law enforcement agency or to a person identified in a court order shall be maintained in strict confidence by the party receiving the information.

§ 3A:71-10.1 Requirements of request for exemption

(a) A provider agency requesting an exemption from the provisions of this chapter shall provide a written request to the Commissioner which includes the following:

1. Identification of the statute or administrative rule which demonstrates the provider agency's bona fide requirement and authority for the use of the actual address of an individual;

2. Identification of the specific record for which the exemption is requested;

3. A description of the specific record or record series;

4. Identification of the individuals who will have access to the record;

5. An explanation of how the provider agency's acceptance of a substitute address will prevent the agency from meeting its obligations under the statute or rule identified in (a)1 above; and

6. An explanation of why the provider agency cannot meet its statutory or administrative obligations by a change in its internal procedures.

§ 3A:71-10.2 Exemption determination

(a) The Commissioner's decision to grant or withhold a requested exemption shall be based on, but not limited to, an evaluation of the information provided under N.J.A.C. 3A:71-10.1. The decision shall be rendered within 20 days receipt of the provider agency's request for exemption.

(b) If the Commissioner determines that a provider agency has a bona fide statutory or administrative requirement for the use of a program participant's actual address information and that the actual address information will be used only for those statutory and administrative purposes, the Commissioner may issue a written exemption determination to the provider agency.

(c) A decision granting the request for exemption shall include:

1. A statement as to the provider agency's obligation to maintain the confidentiality of a program participant's address information;

2. Limitations on use and access to that address information;

3. The term during which the exemption is authorized for the provider agency where the provider agency is making procedural changes that would allow it to accept the substitute address;

4. Designation of the record format on which the address information may be maintained; and

5. Designation of an address information disposition date after which the provider agency may no longer maintain a record of the address information.

(d) A Commissioner's denial of a provider agency's exemption request shall be made in writing and include a statement of the specific reasons for the denial.

(e) When a program participant requests use of the substitute address in a record, and the provider agency has received an exemption determination for that record, the provider agency shall immediately provide a copy of the Commissioner's written decision to the program participant. The provider agency shall notify the program manager of the applicant's request for use of the substitute address and its decision to deny the request.

§ 3A:71-10.3 Appeal of denial of request for exemption

(a) A provider agency may appeal the denial of its request for exemption by providing additional data and information evidencing the steps that have been or are being taken to resolve the basis for the Commissioner's denial determination.

(b) During the review, evaluation and appeal of a provider agency's exemption request, the provider agency shall accept the use of a program participant's substitute address.

§ 3A:71-11.1 Confidentiality of voter records information

All information related to voter records of program participants shall be confidential and shall not be released without the program participant's expressed written authorization, except as otherwise provided in N.J.S.A. 47:4-1 et seq.

§ 3A:71-11.2 Processing of protected voter records

Voter records of program participants shall be processed in accordance with procedures adopted by the county elections superintendent that ensure the confidentiality of the names and addresses of victims of domestic violence.

Title 3A, Chapter 72 -- Women's Micro-Business Program

Statutory Authority

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 72, Women's Micro-Business Program, expired on January 6, 2018. See: 43 N.J.R. 1203(a).

Title 3A, Chapters 73 through 79 (RESERVED)

Title 3A, Chapter 80 -- Instructional Staff

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 18A:1-1, 18A:7B-6 and 9, 18A:60-1 et seq. (P.L. 1986, c. 158), and 30:1-12.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

Effective Date: March 14, 2019.

New Expiration Date: March 14, 2026.

See: 51 N.J.R. 499(b)

Chapter 80, Instructional Staff, was recodified from N.J.A.C. 10:11, Instructional Staff, by administrative change, effective January 3, 2017. As part of the recodification, attendant technical changes were made to the rule text concerning cross-references, agency names, addresses, etc. See: 49 N.J.R. 98(a).

§ 3A:80-1.1 Purpose

This subchapter implements the provisions of N.J.S.A. 18A:60-1 et seq. which grant tenure rights to instructional staff of the Department of Human Services.

§ 3A:80-1.2 Scope

(a) This subchapter applies to all individuals employed by the Department of Human Services who:

1. Are required to possess appropriate educational certification as a condition of employment; and
2. Are not otherwise included in the New Jersey Department of Personnel career service.

§ 3A:80-1.3 Definitions

When used in this subchapter, the following terms shall have the indicated meanings, unless the context clearly indicates otherwise.

"Break in service" means resigning or leaving a tenured position for any purpose including to enter a career service; a non-tenured, unclassified service; or a Senior Executive Service position.

"Instructional staff member" means a member of the professional staff of the Office of Education or any facility in the Department of Human Services, holding position, employment or function of such character that the qualifications require him or her to possess a valid and effective standard certificate issued by the State Board of Examiners, appropriate to his or her assignment, as determined by the Director, Office of Education. Applications of time earned during possession of emergency or provisional certifications are described in N.J.A.C. 3A:80-1.5.

"Office of Education" means the Office of Education within the Department of Human Services.

"One year of service" means, for seniority purposes only, 12 months of employment in pay status in a tenure-applicable title in the Department of Human Services. A service period commences on the date of appointment into a tenure-applicable title. Examples of tenure-applicable titles are Teacher I; Teacher II; Supervisor of Educational Programs I and II; Assistant Supervisor of Educational Programs I and II; Instructor, Commission for the Blind and Visually Impaired; School Psychologist; Learning Disabilities Specialist; School Social Worker; and other educational titles that require staff to hold valid and effective standard certificates, issued by the State Board of Examiners appropriate to the assignment as determined by the Director, Office of Education.

§ 3A:80-1.4 Scope of tenure

Once tenure is acquired by an employee, such standing shall apply throughout the Department of Human Services. If, however, the employee experiences a break in service, he or she will forfeit tenure rights.

§ 3A:80-1.5 Eligibility

(a) In addition to fulfillment of the requirements set forth in N.J.A.C. 3A:80-1.2, and pursuant to N.J.S.A. 18A:60-1 et seq., those individuals who have been continuously employed for at least two academic years in an instructional capacity within the Department of Human Services as of July 1, 1986 and have completed at least two years of educational services with satisfactory evaluations shall acquire tenure upon completion of one additional year of satisfactory service.

(b) Those individuals who do not meet the requirements set forth in (a) above, but were employed on or after July 1, 1986, shall be eligible for tenure:

1. After continuous employment for three consecutive years; or

2. After employment for the equivalent of more than three years within a period of four consecutive academic years.

(c) Employment experience obtained under emergency or provisional certification, in accordance with N.J.A.C. 6A:9, may be applied towards tenure eligibility, provided an instructional staff person, following his or her employment under an emergency certificate, is issued a permanent certificate in the same educational services endorsement area as the emergency certificate. However, tenure may be acquired only when standard certification is issued.

§ 3A:80-1.6 Notice of reemployment; non-reemployment

(a) All notices under this section, including the recommendation for reemployment or the 60-day notice of non-reemployment, shall be made by the appointing authority and the Director, Office of Education, or his or her qualified designee for all instructional staff.

1. By the appointing authority, in conjunction with an educationally certified supervisor or educationally certified administrator, for non-supervisory or non-administrative instructional staff;

2. By the appointing authority, in conjunction with the Director, Office of Education, or his or her qualified designee, for all supervisory or administrative staff.

(b) A written notice of non-reemployment shall be provided to an individual not to be granted tenure at least 60 days prior to such individual's date of tenure eligibility pursuant to N.J.A.C. 3A:80-1.5.

(c) All non-tenured instructional staff not recommended for tenure shall be dismissed prior to the otherwise effective date of tenure.

(d) Any instructional staff member who receives a notice of non-reemployment, as noted in (b) above, may, within 15 days of receipt of the notice, request, in writing, a statement of the reasons for such action from the appointing authority (N.J.S.A. 18A:27-3.2), which statement of reasons shall be given to the instructional staff member in writing within 30 days after the receipt of such request.

§ 3A:80-1.7 Performance assessment

(a) The supervision and evaluation of instructional staff shall be conducted by educationally certified supervisors employed in an educational capacity within the Department of Human Services or by the Director, Office of Education, or his or her appropriately qualified designee, in conjunction with the appointing authority.

(b) For purposes of evaluation of non-tenured instructional staff, the following provisions shall apply.

1. An educationally certified supervisor, an educationally certified administrator or the Director, Office of Education, as appropriate, shall conduct the annual Performance Assessment.

2. The annual Performance Assessment shall consist of a minimum of three observations, three written evaluations, and three conferences.

3. Each of the three observations required pursuant to N.J.S.A. 18A:27-3.1 shall be conducted for a duration appropriate to an individual's duties and responsibilities but for at least one class or lesson period for a teacher or instructor.

(c) For purposes of evaluation of tenured instructional staff, the following provisions shall apply.

1. 18. An educationally certified supervisor, an educationally certified administrator or the Director, Office of Education, as appropriate, shall conduct the annual Performance Assessment.
2. 19. The annual Performance Assessment shall consist of a minimum of two observations, two written evaluations, and two conferences.

(d) A non-tenured or tenured instructional staff member shall be observed through visitation to his or her classroom or work station by an educationally certified supervisor, an educationally certified administrator or the Director, Office of Education, for the purpose of evaluating the staff member's performance of assigned duties and responsibilities.

(e) Each observation shall be followed within a reasonable period of time by a conference between the instructional staff member and the supervisory or administrative staff member who conducted the observation and prepared the written evaluation. Each party to the conference will sign the Performance Assessment instrument and retain a copy for his or her records.

(f) The instructional staff member shall have the right to submit his or her comments to such an evaluation within 10 days following the conference and such disclaimer shall be attached to each party's copy of the instrument.

§ 3A:80-1.8 Disciplinary action--tenured staff

(a) In a case where disciplinary action is recommended or implemented, which does not involve dismissal or reduction in salary, as a result of charges made against a tenured employee of the Department of Human Services, the appointing authority and the Director, Office of Education, or his or her qualified designee shall act in accordance with Department of Human Services Administrative Order 4:08, a copy of which may be obtained from the employing facility.

(b) In a case where disciplinary action will result in dismissal or reduction in salary, for reasons other than inefficiency, the charges shall be filed with the Director of Employee Relations. The charges shall be stated with specificity as to the action or behavior underlying the charges and shall be accompanied by a supporting statement of evidence, both of which shall be executed under oath by the person or persons instituting such charges.

(c) The charges, along with the required sworn statement of evidence, shall be transmitted to the affected employee and the employee's representative, if known, within three working days of the date they were filed with the Director of Employee Relations. Proof of mailing or in-person delivery shall constitute proof of transmittal.

(d) The affected tenured employee shall have the opportunity to submit to the Director of Employee Relations a written statement of position and a written statement of evidence, both of which shall be executed under oath with respect thereto, within 15 days of receipt of the tenure charges.

(e) Within 45 days of receipt of the affected tenured employee's written statement of evidence under oath or upon expiration of the allotted 15-day time period, the Director of Employee Relations shall determine whether there is probable cause to credit the evidence in support of the charges and whether such charges, if credited, are sufficient to warrant a dismissal or reduction of salary.

(f) The Director of Employee Relations shall immediately notify in writing the affected employee against whom the charge has been made of the determination, in person or by certified mail to the last known address of the employee and the employee's representative, if known.

(g) If the Director of Employee Relations determines that probable cause exists and that the charges, if credited, warrant dismissal or reduction in salary, he or she shall file such charges and the required certification with the Commissioner of the Department of Education, together with proof of service upon the employee and the employee's representative, if known.

(h) Procedures for tenure charges based on inefficiency and procedures governing processing and hearing provisions subsequent to the filing of charges in (g) above are set forth at N.J.A.C. 6A:3-5.1 through 5.6.

§ 3A:80-1.9 Reduction in force

Nothing contained in N.J.S.A. 18A shall be held to limit the right of the Commissioner of Human Services in the case of any educational program conducted under his or her jurisdiction, supervision or control, to reduce the number of instructional staff in any such educational program or programs when the reduction is due to natural diminution of the number of students participating in the educational program or programs, subject to N.J.A.C. 6:3-5.1.