

Subdivisions (t) and (u) of section 427.2 are added to read as follows:

- (t) Supervised independent living program means one or more of a type of agency boarding home operated and certified by an authorized agency in accordance with the regulations of the Office of Children and Family Services to provide a transitional experience for older youth who, based upon their circumstances, are appropriate for transition to the level of care and supervision provided in the program.
- (u) Supervised independent living unit means a home or apartment certified in accordance with the standards set forth in Part 449 of this Title by an authorized agency approved by the Office of Children and Family Services to operate a supervised independent living program for the care of up to four youth including their children. Each supervised independent living unit must be located in the community separate from any of the authorized agency's other congregate dwellings.

Subdivision (i) of section 441.2 is amended and new subdivisions (m) and (n) are added to read as follows:

(i) *Agency boarding home* means a family-type home for the care and maintenance of not more than six children operated by an authorized agency, in quarters or premises owned, leased or otherwise under the control of such agency, except that such a home may provide care for more than six brothers and sisters of the same family. [*Agency boarding home* also means a supervised independent living unit which cares for not more than three children who reside in the community, separate from the agency's other dwellings. Supervised independent living programs are described in section 447.7 of this Title.]

(m) Supervised independent living program mean one or more of a type of agency boarding home operated and certified by an authorized agency in accordance with the regulations of the Office of Children and Family Services to provide a transitional experience for older youth who, based upon their circumstances, are appropriate for transition to the level of care and supervision provided in the program.

(n) Supervised independent living unit means a home or apartment certified in accordance with the standards set forth in Part 449 of this Title by an authorized agency approved by the Office of Children and Family Services to operate a supervised independent living program for the care of up to four youth including their children. Each supervised independent living unit must be located in the

community separate from any of the authorized agency's congregate dwellings.

Sections 447.7 and 447.8 are repealed.

Part 449 is added to read as follows:

Part 449
Supervised Independent Living Programs

§ 449.1 Definitions.

For the purpose of this Part:

- a) Authorized agency means one of the entities defined in paragraph (a) or (b) of subdivision 10 of section 371 of the Social Services Law.
- b) OCFS means the New York State Office of Children and Family Services.
- c) Supervised independent living program authorization means written approval issued by OCFS to an authorized agency in accordance with this Part for the operation of a supervised independent living program.
- d) Supervised independent living program means one or more of a type of agency operated boarding home operated and certified by an authorized agency in accordance with this Part to provide a transitional experience for older youth who, based upon their circumstances, are appropriate for transition to the level of care and supervision provided in the program.
- e) Supervised independent living unit means a home or apartment certified in accordance with the standards set forth in this Part by an authorized agency approved by OCFS to operate a supervised independent living program for the care of up to four youth including their children. Each supervised independent living unit must be located in the community separate from any of the authorized agency's other congregate dwellings.
- f) Supervised independent living program certification means a certificate issued by an authorized agency approved to operate a supervised independent living program for the operation of a supervised independent living unit. Such certification is non-transferable and is effective for a one year period.
- g) Youth means a child in the care and custody or the custody and guardianship of the commissioner of a local department of social services or OCFS.
- h) Adult permanency resource means a caring committed adult who has been determined by a social services district to be an appropriate and acceptable resource

for a youth and is committed to providing emotional support, advise and guidance to the youth and to assist the youth as the youth makes the transition from foster care to responsible adulthood.

§449.2 Conditions for Application and Approval of a Supervised Independent Living Program.

- a) An authorized agency may not operate a supervised independent living program until it receives the written approval of OCFS.
- b) An authorized agency desiring to operate a supervised independent living program must apply to OCFS for authorization to operate such a program in a manner as required by OCFS. Such application must include:
 - 1) a description of the need for the program, and a list of the social services districts interested in using the program, including letters of support from all districts that intend to use the proposed program;
 - 2) a description of the services that will be provided, including a plan setting forth how the services will be provided;
 - 3) the population to be served;
 - 4) proposed staffing, including the proposed staff to youth ratio for the program and the procedures for obtaining background checks on prospective employees, volunteers or consultants;
 - 5) a description of how units will be located and certified;
 - 6) a certification that all supervised independent living units will be operated in compliance with this Part; and
 - 7) any other information required by OCFS.
- c) A review to determine the applicant's compliance with OCFS requirements will be conducted by OCFS after the receipt of the application and all required supporting documentation.
- d) A notice of approval or denial of the application will be issued by OCFS after the completion of the review and, if the application is approved, a letter of approval will be issued by OCFS to the applicant.
- e) If an application is denied, OCFS will give written notice of the denial to the applicant, informing the applicant of the reasons therefore and of the applicant's right to request a hearing before a hearing officer designated by OCFS in accordance with the procedures set forth in Part 343 of this Title.

- f) The applicant's request for a hearing to review the denial of an application for an operating certificate must be made within 60 days after written notice of denial.
- g) The supervised independent living program and each independent living unit are subject to the inspection, supervision and enforcement powers of OCFS, as set forth in Article 7 of the Social Services Law.

§449.3 Conditions for Operation of a Supervised Independent Living Program.

- a) After receiving approval to operate a supervised independent living program from OCFS, the authorized agency may operate a program and certify supervised independent living units for occupancy by youth at the sites for which the authorized agency has issued supervised independent living program certifications.
- b) An authorized agency may only issue supervised independent living program certifications for sites that are in compliance with the requirements of this Part.
- c) An authorized agency operating an approved supervised independent living program must notify OCFS of the certification, renewal and/or closure of each supervised independent living unit. Such notification must be made by the authorized agency within 10 days of such certification, renewal or closure in the form and manner as required by OCFS.
- d) The authorized agency is responsible for the inspection, monitoring and supervision of all the supervised independent living units operated by the agency.
- e) A professionally trained caseworker, a person with experience in child welfare, or a person holding a master's degree in a related field who is in the employ of the authorized agency must supervise the supervised independent living program.
- f) The person designated to supervise the program must make the determination as to the youth to be placed in each supervised independent living unit, or such determination may be made by an interdisciplinary team when it is the general practice of the authorized agency to use such teams to make placement decisions.
- g) Adequate staffing must be maintained to provide services, visits, and supervision. The supervision of youth participating in a supervised independent living program must be performed by designated staff member(s) of the authorized agency who are qualified to perform such function; staff member(s) so designated must visit and consult with each youth at the supervised independent living unit at least twice per week. At least one visit per week must be held outside of standard business hours. An increased number of visits are required, when necessary, to address the individual health and safety needs of the residents of the supervised independent living unit. Visits conducted pursuant to this subdivision may satisfy the casework contact requirements of section 441.21(c) of this Title to the extent that visits are made by

the child's case planner or caseworker assigned to the child by the case planner.

- h) The authorized agency must re-evaluate and renew the certification of each supervised independent living unit on an annual basis using standards contained in this Part. This evaluation must be documented in the authorized agency's record.
- i) Reimbursement for certified supervised independent living units will be provided on a basis and in a manner as determined by OCFS.
- j) An authorized agency operating a supervised independent living programs must submit fiscal and program data to OCFS in accordance with the provisions of Part 427 of this Title.

§449.4 Requirements for each Supervised Independent Living Unit

a) Personnel

- (1) Each authorized agency operating a supervised independent living program must establish a procedure to review and evaluate the backgrounds of and information supplied by all applicants for employee, volunteer or consultant positions in the supervised independent living program. This procedure must take into account any appropriate collective bargaining agreement(s) and, in the case of a supervised independent living program operated by a social services official, must also comply with applicable provisions of the Civil Service Law. As part of this procedure, each employee, volunteer or consultant applicant must submit all of the following information:
 - (i) a statement or summary of the applicant's employment history, including, but not limited to, any relevant child-caring experience;
 - (ii) the names, addresses and, where available, telephone numbers of references who can verify the applicant's employment history, work record and qualifications.
 - (iii) the names, addresses and telephone numbers of at least three personal references, other than relatives, who can attest to the applicant's character, habits, reputation and personal qualifications; and
 - (iv) a sworn statement by the applicant indicating whether, to the best of such applicant's knowledge, the applicant has ever been convicted of a crime in New York State or any other jurisdiction.

- (2) Persons caring for youth must be in good physical and mental health, and free from any communicable disease. Physical fitness must be shown by a certificate from a physician at the time of initial employment and annually thereafter.
- (3) If an applicant discloses in the sworn statement furnished in accordance with subparagraph (iv) of paragraph of this subdivision that he or she has been convicted of a crime, the authorized agency operating the supervised independent living program must determine, in accordance with guidelines developed and disseminated by OCFS, whether to hire the applicant or to use the volunteer or consultant. If the authorized agency determines it will hire the applicant or use the applicant as a volunteer or consultant who has the potential for regular and substantial contact with youth in the program, the authorized agency must maintain a written record, as part of the application file or employment or other personnel record of such person, of the reason(s) why such person was determined to be appropriate and acceptable as an employee, volunteer or consultant.

(4) Inquiries to the Statewide Central Register of Child Abuse and Maltreatment:

- (i) With regard to any person who is actively being considered for employment, or to any individual or any person who is employed by an individual, corporation, partnership or association which provides goods or services to the authorized agency, and who has or will have the potential for regular and substantial contact with youth being cared for by the authorized agency, the authorized agency operating the supervised independent living program must inquire of OCFS whether any such person is the subject of an indicated report of child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and Maltreatment. In addition, the authorized agency may inquire whether any current employee or any person who is being considered for use as a volunteer or for hiring as a consultant and who has or will have the potential for regular and substantial contact with youth who are being cared for by the supervised independent living program is the subject of an indicated report of child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and Maltreatment. An inquiry regarding any current employee may be made only once in any six-month period.
- (ii) Prior to making an inquiry pursuant to subparagraph (i) of this paragraph, the authorized agency must notify, in the form

prescribed by OCFS, the person who will be the subject of an inquiry that the inquiry will be made to determine whether such person is the subject of an indicated report of child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and Maltreatment.

- (iii) Except as set forth in clause (a) of this subparagraph, an authorized agency may not permit a person hired by the authorized agency or a person who is employed by an individual, corporation, partnership or association which provides goods or services to the authorized agency to have contact with youth in the care of the supervised independent living program prior to obtaining the result of the inquiry required by this subdivision.

- (a) An employee of an authorized agency or an employee of a provider of goods and services to the authorized agency may have contact with youth cared for by the supervised independent living program prior to the receipt by the authorized agency of the result of the inquiry required by this subdivision only where such employee is visually observed or audibly monitored by an existing staff member of the authorized agency. Such employee must be in the physical presence of an existing staff member for whom:
 - (1) the result of an inquiry required by section 424-a of the Social Services Law has been received by the authorized agency and the authorized agency hired the existing staff member with knowledge of the result of the inquiry; or
 - (2) an inquiry was not made because such staff member was hired before the effective date of section 424-a of the Social Services Law.

- (iv) When the person who is the subject of the inquiry is an applicant for employment, OCFS will charge a five-dollar fee when it conducts a search of its records within the Statewide Central Register of Child Abuse and Maltreatment to determine whether such applicant is the subject of an indicated report.

- (a) The required fee must either accompany the inquiry form submitted to OCFS or, for an inquiry submitted by a social services district, the district may elect to have the fee subtracted from its claims for reimbursement submitted

pursuant to section 601.1 of this Title.

- (b) Fees must be paid by authorized agency business check, certified check, postal or bank money order, teller's check or cashier's check made payable to "New York State Office of Children and Family Services". Personal checks and cash are not acceptable forms of payment.
- (v) If the applicant, employee or other person about whom the authorized agency has made an inquiry is found to be the subject of an indicated report of child abuse or maltreatment, the authorized agency must determine, on the basis of information it has available and in accordance with guidelines developed and disseminated by OCFS, whether to hire, retain or use the person as an employee, volunteer or consultant, or to permit the person providing goods or services to have access to youth being cared for by the authorized agency. Whenever such person is hired, retained, used or given access to youth, the authorized agency must maintain a written record, as part of the application file or employment or other personnel record of such person, of the specific reason(s) why such person was determined to be appropriate and acceptable as an employee, volunteer, consultant, or provider of goods or services with access to youth being cared for by the supervised independent living program.
- (vi) If the authorized agency denies employment or makes a decision not to retain an employee, not to use a volunteer, not to hire a consultant, or not to permit a person providing goods or services to have access to youth being cared for by the supervised independent living program, the authorized agency must provide a written statement to the applicant, employee, volunteer or consultant or other person indicating whether the denial or decision was based in whole or in part on the existence of the indicated report and, if so, reasons for the denial or decision. If the denial or decision was based in whole or in part on such indicated report, the statement must also include written notification, in the form prescribed by OCFS, to the applicant, employee, volunteer, consultant or other person that:

 - (a) He or she has the right, pursuant to section 424-a of the Social Services Law, to request a hearing before OCFS regarding the record maintained by the Statewide Central Register of Child Abuse and Maltreatment;
 - (b) The request for such a hearing must be made within 90 days

of the receipt of the written notice indicating that the denial or decision was based on the existence of the indicated report; and

(c) The sole issue at any such hearing will be whether the applicant, employee, volunteer, consultant or other person has been shown by a fair preponderance of the evidence to have committed the act or acts of child abuse or maltreatment giving rise to the indicated report.

(vii) If in a hearing held pursuant to a request made in accordance with subparagraph (vi) of this paragraph and section 424-a of the Social Services Law a decision issued by OCFS finds that there was a failure to show by a fair preponderance of the evidence that the applicant, employee, volunteer, consultant or other person committed the act or acts upon which the indicated report is based, OCFS will notify the authorized agency which made the inquiry that, pursuant to the hearing decision, the authorized agency's decision to deny the application, discharge the employee, not to use the volunteer or consultant, or not to permit the person providing goods or services to have access to youth being cared for by the authorized agency should be reconsidered. Upon receiving such notification from OCFS, the authorized agency should review its denial or other decision without considering the indicated report.

(b) Physical facility.

1) A supervised independent living unit must be in an appropriate neighborhood and so located that it is readily accessible to necessary services and adequate transportation.

2) A supervised independent living unit must be of sufficient size to provide proper accommodations for the youth placed in the unit.

3) A supervised independent living unit must be kept in clean and sanitary condition and in good repair, and must provide for the reasonable comfort and well being of the youth.

4) A supervised independent living unit must be protected by a fire detection system, a sprinkler system, as those terms are defined in section 441.2 of this Title, or a smoke detection system or individual smoke detectors as required by applicable local codes and the New York State Uniform Fire Prevention and Building Code.

(i) Buildings used in whole or in part as a supervised independent living unit

must comply with all applicable laws, ordinances, rules, regulations and codes relating to buildings, fire protection, health and safety.

- (ii) All areas of fire hazard in the supervised independent living unit must be protected by a sprinkler system or fire detection system, as those terms are defined in section 441.2 of this Title. Areas of fire hazard must be separated from other areas by construction having a fire resistance rating of at least one hour. An area of fire hazard means a heating equipment room; a woodworking shop; a paint shop; a storeroom for mattresses, furniture, paints and/or other combustible or flammable materials or liquids; and any other space or room exceeding 100 square feet in floor area where other combustible or flammable materials are regularly stored.
- (iii) Other than quantities of flammable materials necessary for the operation and maintenance of the supervised independent living unit, which must be kept in closed containers in storage cabinets, and fuel oil, which must be kept in oil storage tanks, flammable materials must not be stored in the supervised independent living unit.
- (iv) All fire protection systems and equipment must be designed, installed, and maintained in accordance with the New York State Uniform Fire Prevention and Building Code. All fire protection systems and equipment must be inspected according to local and New York State building codes. A written report of such inspections must be kept on file by the authorized agency. All identified defects in systems or equipment must be corrected and re-inspected immediately.
- (v) A supervised independent living unit must be free from all conditions that constitute a hazard to the life, health or safety of any person. The following are prohibited:
 - (a) portable electric space heaters or self-contained fuel-burning space heaters;
 - (b) solid-fuel-burning, free-standing stoves, except where approved in writing by the authorized agency;
 - (c) use of fuel-burning or electric "hot plates";
 - (d) illegal connections for gas appliances;
 - (e) combustible or flammable containers for ashes;
 - (f) the accumulation of combustible or flammable materials in any part of the unit;

- (g) damaged equipment, furnishings or physical plant, when their condition makes them unsafe for normal use;
- (h) broken plumbing or stopped sewers that are not promptly repaired;
- (i) exposed steam pipes, heating pipes and radiators and unenclosed heating plants and equipment with which youth may come in contact;
- (j) use of materials containing asbestos in any construction, renovation or repair of any supervised independent living program where such construction, renovation or repair occurs on or after July 1, 1993;
- (k) any furniture, toys or construction containing lead-based paint;
- (l) any lead paint hazard or paint condition conducive to lead poisoning, as such term is defined in 10 NYCRR 67.1. Any building used in whole or in part as a supervised independent living unit occupied by a child six years of age or younger must be inspected to determine if it presents such hazard. The authorized agency must request the local health department to perform such inspection and is responsible for correcting any hazard called to its attention as a result of such inspection. In the event that such request for inspection is rejected by the local health department, the authorized agency must notify OCFS immediately;
- (m) extension cords, unless approved in writing by the authorized agency;
and
- (n) any other condition deemed hazardous by OCFS or the authorized agency.
 - (vii) Fire extinguishers must be provided in each supervised independent living unit and maintained in accordance with the New York State Uniform Fire Prevention and Building Code. Fire extinguishers must be wall-hung between two feet and four-and-one-half feet above the floor. All staff members and youth must be instructed in the proper operation of extinguishers. In each unit there must be a minimum of one fire extinguisher on each floor, and, additionally, one in the kitchen, one in the laundry room and one outside any heating equipment room.
 - (viii) A supervised independent living unit must have a minimum of two means of egress from the unit's floor that are readily accessible to the youth. For a window opening to qualify as a means of egress, it must be at least 24 inches high and 20 inches wide with the bottom of the

window no higher than three feet eight inches above the floor unless acceptable access is provided by steps or furniture fixed in place. An upper level window, to qualify as a means of egress, must also have a platform outside the window and a stair, permanently affixed to the building, leading to ground level.

- (ix) Youth are not permitted above the second story in a building of type 5, wood frame construction (that type of construction in which the walls, partitions, floors and roof are wholly or partly of wood or other combustible materials). Youth of limited mobility are not permitted above the first story in a building of wood frame construction. A building of wood frame construction occupied by youth of limited mobility must be protected by a sprinkler system and the first story must be handicap accessible for youth of limited mobility and accommodate the needs of such youth.
- (x) All exit doors and means of egress, halls and stairs must be well lighted and kept clean, free of obstruction and ready at all times for immediate use. Battery-operated or generator-powered emergency lighting units or systems must be provided and maintained in accordance with the New York State Uniform Fire Prevention and Building Code.
- (xi) Each supervised independent living unit must be provided with emergency lights, such as flashlights or battery-operated lanterns, in good working order.
- (xii) Each supervised independent living unit must have a plan for evacuation of the unit, posted in a conspicuous place on each floor level in the unit. The agency must maintain a diagram of the living unit's floor plan on file.
- (xiii) Youth and staff must be instructed in how to evacuate the building in which the supervised independent living unit is located. Newly admitted youth, newly hired staff and volunteers must be instructed in evacuation procedures as part of their orientation to the supervised independent living unit. Evacuation procedures must be reviewed quarterly with youth after placement.
- (xiv) Electrical wiring and equipment must comply with the New York State Uniform Fire Prevention and Building Code and any other applicable laws, ordinances, rules, regulations and codes. Certification of such compliance is required for all new supervised independent living units prior to opening and a record of such certification of compliance must be kept on file by the authorized agency. OCFS may require recertification of the safety of an electrical system in any supervised

independent living unit where the electrical system appears to be unsafe or inadequate, or if new electrical work has been done.

- (xv) Heating, ventilating and other mechanical systems must comply with the New York State Uniform Fire Prevention and Building Code and any other applicable laws, ordinances, rules, regulations and codes and must be designed, installed, located and maintained so that under normal conditions of use such equipment and systems are not a danger to the health or welfare of youth or staff in the building in which the supervised independent living unit is located. Heating plants and equipment must be protected from tampering by youth.
- (xvi) All shop, maintenance, grounds and farm equipment must be equipped with approved safety devices and must be maintained in safe working condition. Youth must not operate such equipment except under the close supervision of responsible staff members.
- (xvii) A minimum of one non-coin operated, single line telephone must be provided and must be accessible at all times in each supervised independent living unit occupied by youth or each youth must be provided with a personal cellular telephone. Emergency telephone numbers for fire, police and medical assistance must be posted in the supervised independent living unit.
- (xviii) Each authorized agency must request in writing an annual safety inspection of the buildings in which supervised independent living units are located and all fire protection equipment by local fire authorities and/or the authorized agency fire and casualty insurance carrier who must be requested to give the authorized agency a written report of their findings. An authorized agency is responsible for correcting any hazards called to its attention as a result of such inspection that could affect a supervised independent living unit in the building and for keeping a copy of the report and a written record of the action taken, with date, on file. An authorized agency must keep a copy of the written request for inspection and the response on file and must notify OCFS immediately in the event that such request for inspection is rejected by the local fire authorities or the authorized agency's fire and casualty insurance carriers.
- (xix) An authorized agency must report promptly by telephone to OCFS the occurrence of any fire in any supervised independent living unit, or within any building in which such authorized agency has certified a supervised independent living unit. This report must be made as soon as possible and in no event later than 24 hours after the fire, and the authorized agency must then confirm the occurrence of the fire by a written report to OCFS within 10 working days after the date of the

fire. The written report must include:

- (a) the date and time of the fire;
 - (b) the extent of personal injuries;
 - (c) the extent of property damage;
 - (d) the probable cause of the fire, if known;
 - (e) which fire department responded;
 - (f) whether youth were relocated, and, if so, where;
 - (g) whether fire and smoke detection and alarm devices or systems operated properly;
 - (h) whether evacuation procedures were followed;
 - (i) the location of the fire;
 - (j) a description of the progress of the fire, the manner in which the fire spread and what efforts were made and methods were used to combat the fire; and
 - (k) any problems encountered with evacuation procedures, response by the fire department and ability of the fire department to combat the fire effectively.
- (xx) All fireplaces and their chimneys in the supervised independent living unit must be inspected and cleaned annually by a qualified person.
- 5) There must be an adequate and accessible supply of hot and cold water of safe quality in the supervised independent living unit.
- 6) The supervised independent living unit must be effectively screened against flies and other insects.
- 7) Temperature in the supervised independent living unit must be maintained at a comfortable level according to New York State Fire Prevention and Building Codes.
- 8) Adequate bathing, toilet and lavatory facilities must be provided in the supervised independent living unit, and must be kept in sanitary condition.

- 9) Each youth must have a separate bed. Single bedrooms must contain at least 70 square feet. Bedrooms occupied by more than one youth must have 70 square feet plus an additional 50 square feet of floor area per additional youth. There must be at least two feet of space between beds. Youth must not walk through one bedroom to get to another bedroom.
- 10) All habitable rooms, except the kitchen, must be no less than seven feet in any dimension. For rooms with sloped ceilings, include only the floor dimensions with a clear ceiling height of five feet or more in this calculation. One-third of the minimum required floor area of each room must have a ceiling height of seven feet.
- 11) The kitchen must have at least three feet of clear passage between counter fronts and appliances or counter fronts and walls.
- 12) Every sleeping room occupied by youth must have good natural light and ventilation, and must have one or more windows opening directly to the outside.
- 13) No bed may be located in an unfinished attic, unfinished basement or other space commonly used for other than bedroom purposes.
- 14) Separate and accessible drawer space for personal belongings, and sufficient closet space for indoor and outdoor clothing, must be available for individual youth.
- 15) Supervised independent living units which house parenting youth and their children must comply with the following additional conditions:
 - (i) No peeling or damaged paint or plaster may be present;
 - (ii) Access to outdoor play space must be available;
 - (iii) Radiators and piping accessible to children must be covered or have a barrier to protect children;
 - (iv) Porches, decks, and stairways must have railings with a barrier to prevent children from falling;
 - (v) Adequate barriers to prevent children from gaining access to unsafe, dangerous or hazardous areas or devices, such as fireplaces, wood burning stoves, gas space heaters, pools, spa pools, hot tubs, and second floor and above windows, must be provided;

- (vi) Protective caps, covers, or permanently installed obstruction devices on all electrical outlets accessible to children must be present;
 - (vii) All matches, lighters, medicines, drugs, cleaning material, detergents, aerosol cans, beauty aids, and poisonous or toxic materials and plants must be safely stored and must be used in such a way that they will not contaminate play surfaces, food and food preparation areas, or constitute a hazard to children, and other such materials must be kept in a place inaccessible to children;
 - (viii) Hand bags, backpacks, briefcases, plastic bags, toys and objects small enough for children to swallow must not be accessible to children; and
 - (ix) Each child must have a separate bed or crib, as appropriate.
- 16) Children of different genders above the age of four years may not sleep in the same room, except that a parenting youth may sleep in the same room as his or her children.

(c) Services

- 1) Supervised independent living programs must include the following service components to provide youth with opportunities to achieve positive outcomes and make successful transitions to self-sufficiency:
- (i) An ongoing support network of consistent adults or families in their lives;
 - (ii) A diligent and ongoing effort to establish an adult permanency resource for each youth;
 - (iii) Preventive health care;
 - (iv) Employment skills/training, and the development of work ethics;
 - (v) Educational support;
 - (vi) Housing support;
 - (vii) Budgeting and financial management skills;
 - (viii) Shopping, cooking and housecleaning skills;

- (ix) Access to community resources/community linkages;
- (x) Connections with caring adults, such as mentors;
- (xi) Positive youth development;
- (xii) Necessary developmentally appropriate services;
- (xiii) Preparation for discharge and the transition to adulthood;
- (xiv) Parenting skills, child development education and any other child rearing training deemed necessary; and
- (xv) Ongoing assessment of life skills competency.

2) Supervised independent living units that house parent youth and their children must also meet the following criteria:

- (i) The staff and parenting youth must maintain current first-aid and CPR training certification.
- (ii) The plan for youth in placement must include appropriate childcare for the child.
- (iii) No more than two children under two years of age may be cared for in any single supervised independent living unit.

(d) Other conditions for participation in supervised independent living programs to be observed:

- 1) Youth who participate in the supervised independent living program must be at least 16 years of age and not more than 21 years of age.
- 2) Such youth must have been in a foster care placement for at least 45 consecutive days during the period immediately preceding the date on which the youth entered a supervised independent living program, or must have been in the care and custody or custody and guardianship of a social services official or OCFS and have been discharged from foster care on a trial basis in accordance with the provisions of section 430.12(f)(4) of this Title.
- 3) The supervised living program must comply with applicable discharge planning requirements set forth in the Part 428 and 430.12(f) of this

Title.

- 4) As required by section 428.7 of this Title, a plan amendment must be documented and approved by the social services district with case management responsibility for the child within 30 days of discharge of the child from foster care.
- 5) Prior to the transfer of a foster child to a supervised independent living program, the local district which has care and custody or custody and guardianship of the child, or, for a youth in the custody of OCFS, OCFS, must give written approval of the transfer.
- 6) Health supervision, medical and dental care must be provided to each youth in accordance with section 441.22 of this Title.
- 7) The educational and recreational needs of youth must be met.
- 8) Each supervised independent living unit must have facilities that will enable youth to prepare meals. The authorized agency must require that youth maintain sufficient quantities of good quality, properly prepared food specific to the dietary needs of the youth.
- 9) Youth must have individual toilet articles and requisites for personal grooming and hygiene, suitable to ages and needs.
- 10) Youth must have appropriate seasonal clothing. Clothing must be kept clean and in good repair.
- 11) A supervised independent living unit may occupy a house or apartment rented or owned by the authorized agency.
- 12) No supervised independent living unit may house more than four youth including their children.
- 13) If two or more youth live together in the same unit, they must be of the same gender unless the authorized agency receives approval to place siblings of the opposite gender together by utilizing the waiver process identified in section 449.6 of this Part.
- 14) Only persons placed in the supervised independent living program by the authorized agency may reside in a supervised independent living unit.
- 15) Supervised independent living programs must be in compliance with all applicable provisions of State and local laws, ordinances, rules and

regulations concerning health, safety and nondiscrimination.

§449.5 Notification of Municipality.

An authorized agency which plans to establish a supervised independent living unit within a municipality must notify the chief executive officer of the municipality in writing of its intentions. Such notice must include a description of the nature, size and the community support requirements, if any, of the unit. For purposes of this subdivision, "municipality" means an incorporated village, if the supervised independent living unit is to be located therein; a town, if the supervised independent living unit is to be located therein and not simultaneously within an incorporated village; or a city, except that in the City of New York, the community board with jurisdiction over the area in which such authorized agency is to be located is considered the municipality.

§449.6 Required Documentation.

- (a) An authorized agency operating a supervised independent living program must retain the following information for each supervised independent living unit: a floor plan of the unit showing the dimensions and use of each room, including the capacity of each sleeping room; the locations of toilet and bath fixtures, kitchen and laundry equipment, heating equipment, fire and smoke detection and alarm devices or systems, other fire protection equipment; and the location of all means of egress. OCFS may periodically require reports as to continued compliance and any other inspection reports or documentation required by this Part.
- (b) An authorized agency operating a supervised independent living program must maintain a record of each youth received for care, showing the name, date of birth and religious faith of the youth; the supervised independent living unit to which the youth is assigned; and other information pertinent for identification and supervision of the youth.

§449.7 Waivers.

- (a) In order to encourage the development of appropriate programs that will enable foster youth to live on their own in the community, a waiver of the provisions of this Part may be granted by OCFS to authorized agencies which propose to operate or which operate supervised independent living programs and supervised independent living units. Such waiver may be granted only after an authorized agency has submitted to OCFS a plan which describes the operation or proposed operation of the authorized agency's supervised independent living program and demonstrates that granting the waiver will not create any hazardous conditions which could impair the health or safety of the youth, and OCFS has approved the waiver plan in writing.

- (b) An authorized agency which operates a supervised independent living program and which has applied for a waiver must comply with the provisions of this Part until OCFS approves the requested waiver in writing.

- (c) An authorized agency which does not operate a supervised independent living program but proposes to do so subject to a waiver and which submits a waiver plan to OCFS pursuant to this subdivision may not operate the supervised independent living program or supervised independent living unit until such waiver plan has been approved pursuant to this subdivision.

§449.8 Discontinuance

An authorized agency may not discontinue the operation of a supervised independent living program except upon service of written notice to OCFS at least 90 days in advance of the proposed discontinuance. Such notice must comply with the requirements of section 476.2(d) of this Title.