

18 CRR-NY II C 2 420 NotesNY-CRR

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK

TITLE 18. DEPARTMENT OF SOCIAL SERVICES

CHAPTER II. REGULATIONS OF THE DEPARTMENT OF SOCIAL SERVICES

SUBCHAPTER C. SOCIAL SERVICES

ARTICLE 2. FAMILY AND CHILDREN'S SERVICES

PART 420. STATE ADOPTION SERVICE

18 CRR-NY II C 2 420 Notes

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(Statutory authority: Social Services Law, §§ 20, 34, 372-b, 398-a)

Current through May 15, 2015

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RESEARCH REFERENCES AND PRACTICE AIDS:

88 NY Jur 2d, Public Welfare and Old Age Assistance §§ 109, 192, 195, 256.

2 Am Jur 2d, Adoption §§ 48 et seq.

14 Am Jur Proof of Facts 2d 727, Legitimation of Child by Father Seeking Custody of Child.

15 Am Jur Proof of Facts 1, Child Custody.

1 Am Jur Proof of Facts 199, Adoption.

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18 CRR-NY 420.1

420.1 Definitions.

As used in this Part:

(a) *Legally freed child* means a person under the age of 18 years:

(1) whose custody and guardianship have been transferred to an authorized agency as a result of either a surrender instrument executed pursuant to section 383-c or 384 of the Social Services Law or an order of the Family Court or the Surrogate's Court made pursuant to section 384-b of the Social Services Law; or

(2) whose care and custody have been transferred to an authorized agency pursuant to section 1055 of the Family Court Act or section 384-a of the Social Services Law and where such child's parents are both deceased, or where one parent is deceased and the other parent is not a person entitled to notice pursuant to sections 111 and 111-a of the Domestic Relations Law.

(b) *Referral* means the reporting of a legally freed child in the care of an authorized agency to the State Adoption Service.

(c) *Photo listing* means the placing of a legally freed child's picture and description in the books that are organized, prepared, and distributed to authorized agencies and to appropriate citizen groups by the State Adoption Service.

(d) *State Adoption Service* is the unit of the State Department of Social Services responsible for the operation of the program mandated by the provisions of section 372-b of the Social Services Law.

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420.2 Referral to the State Adoption Service.

Except when a waiver of referral is authorized pursuant to subdivision (d) of this section, each legally freed child who has received foster care from an authorized agency for a period of three months or more (including any period of foster care immediately preceding the date on which the child was legally freed for adoption) and who is not in an adoptive placement as defined by section 421.1(d) of this Title must, and any other legally freed child may, be referred by an authorized agency to the State Adoption Service within 10 working days following the end of that three-month period.

(a) Photo listing.

Except where a waiver of photo listing is authorized pursuant to subdivision (c) of this section, for each child being referred, the authorized agency must submit to the department the referral form issued by the department with a recent photograph and a written description of the child to be photo listed.

(b) Delay in photo listing.

(1) Upon referral, the photo listing of a child may, upon request of the referring agency, be delayed where the department determines that the photo listing of the child is not in the child's best interests because the child is not emotionally prepared for an adoptive placement as demonstrated through a written statement from a psychiatrist, psychologist or certified social worker verifying that the child is not emotionally prepared for an adoptive placement.

(2) A delay in photo listing when the child is not emotionally prepared for an adoptive placement will be given for a one time period of six months starting from the date of the referral of the child by the authorized agency to the department. Any child not placed in an adoptive home at the end of the six month period will be immediately photo listed.

(3) The authorized agency requesting such delay will be informed of the approval or disapproval of their request. Upon request, the authorized agency must supply additional information within 15 working days of notification from the department.

(c) Waiver of photo listing.

(1) The photo listing of a child may be waived where:

(i) the child has been placed with a relative within the third degree of consanguinity of the parents of the child and the child does not have a permanency goal of adoption if the department determines that the photo listing of the child continues to be contrary to the child's best interests. Such child must be referred to the State Adoption Service in accordance with subdivision (a) of this section if the child's goal changes to adoption; or
(ii) the child is 14 years or older and will not consent to his or her adoption. Such child must be referred to the State Adoption Service in accordance with subdivision (a) of this section when the child agrees to his or her adoption.

(2) The authorized agency must enter the appropriate code in the Child Care Review Service (CCRS) when photo listing is waived pursuant to this subdivision.

(3) The department will review on an annual basis the status of those children who were referred to the State Adoption Service but not photo listed.

(d) Waiver of referral.

An authorized agency may not refer a child to the State Adoption Service where:

(1) the child has been placed with a foster parent who has expressed, in writing, an interest in adopting the child. Such child must be referred in accordance with subdivision (a) of this section when the foster parent has withdrawn his or her interest in adopting the child or has been disapproved as an adoptive parent; or

(2) the agency has identified two or more potential placements for the child or a family has been selected to adopt the child. Such child must be referred to the State Adoption Service in accordance with subdivision (a) of this section when the child has not been placed into an adoptive home within nine months of having been freed for adoption.

The authorized agency must enter the appropriate code in the CCRS when the child does not have to be referred to the State Adoption Service for the purpose of photo listing.

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420.3 Changes in status.

All changes in the status of a child must be reported to the State Adoption Service within five working days after the change has occurred.

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420.4 Withdrawal from State Adoption Service.

A child's name will be withdrawn from the State Adoption Service when the authorized agency enters the appropriate code into the CCRS that indicates:

(a) the child has been adopted;

(b) the child has reached his or her 18th birthday, and will not consent to the agency's adoption plan;

(c) the child has been discharged from foster care in New York State; or

(d) the child has died.

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420.5 State reimbursement.

Expenditures by an authorized agency for the care and maintenance of a child subject to referral to the State Adoption Service under this Part will not be subject to State reimbursement unless the agency has complied with the requirements of this Part.

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