

18 NYCRR Part 452 is repealed, and a new 18 NYCRR Part 452 is adopted as follows:

PART 452 GENERAL PROVISIONS

Sec.

452.1 Scope

452.2 Definitions

452.3 Application for an operating certificate

452.4 Required documentation in support of an application to operate a residential program for victims of domestic violence

452.5 Operating certificates: general provisions, enforcement and hearings

452.6 Renewal of the operating certificate

452.7 Amendment of the operating certificate

452.8 Supervision and inspection by the Office

452.9 General operational standards

452.10 Confidentiality

452.11 Personnel

452.12 Emergency Core Services

Section 452.1 Scope.

The provisions of this Part apply to any program defined herein to residential programs for victims of domestic violence and will be considered separate from Parts 485-491 of this Title.

452.2 Definitions.

- (a) Domestic violence programs are facilities which would meet the definition of domestic violence shelter, except that victims of domestic violence and their minor children, if any, constitute at least 70 percent of the clientele of such programs. The remaining 30 percent of the clientele of such programs may only consist of persons who will not be disruptive of the provision of services and will not jeopardize the safety and well-being of the residents. For the purposes of this Title, a domestic violence program may also be referred to as a "mixed occupancy shelter."
- (b) Domestic violence safe dwelling means a self-contained residence which is owned, leased, rented or otherwise under the direct control and supervision of a domestic violence sponsoring agency, and has a capacity of nine or fewer persons including adults and children, is secured as specified in section 455.8 of this Title, and has been designated by the domestic violence sponsoring agency to provide temporary shelter exclusively to victims of domestic violence.
- (c) Domestic violence shelters are congregate residential facilities with a capacity of 10 or more persons, including adults and children, organized for the exclusive purpose of providing temporary shelter, and emergency services and care to victims of domestic violence and their minor children, if any.
- (d) Domestic violence sponsoring agencies are not-for-profit organizations offering temporary shelter at a domestic violence safe dwelling and emergency services to victims of domestic violence and their minor children, if any.
- (e) Emotional support or comfort animals include animals that may provide a sense of safety, companionship or comfort to their owners but are not trained to perform specific tasks related to a person's disability.
- (f) Not-for-profit organization means any organization which is a public agency or

incorporated as a not-for-profit corporation or religious corporation under the laws of this State or which provides care and services in this State and has been granted Federal tax-exempt status.

- (g) Office means the New York State Office of Children and Family Services.
- (h) Parent means a natural or adoptive parent or any individual lawfully charged with a minor child's care or custody.
- (i) Person with a disability means a person who has:
 - (1) a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques; or
 - (2) a record of such impairment; or
 - (3) a condition regarded by others as such an impairment.
- (j) Personally identifying information or personal information is individually identifying information for or about an individual, including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, regardless of whether the information is encoded, encrypted, hashed, or otherwise protected, including, (A) a first and last name; (B) a home or other physical address; (C) contact information (including a postal, email or internet protocol address, or telephone or facsimile number); (D) a social security number, driver license number, passport number, or student identification number; and (E) any other information, including date of birth, racial or ethnic background, or religious affiliation, that would serve to identify any individual.
- (k) Provider means the operator or, if applicable, applicant for an operating certificate of any residential program for victims of domestic violence.
- (l) Publicly funded emergency shelter for families with children means any facility with overnight sleeping accommodations and that is used to house recipients of temporary housing assistance and which houses or may house children and families with children.
- (m) Reasonable accommodation for a disability means actions taken to modify existing policies, procedures or practices which permits a domestic violence victim or his/her child with a disability to have meaningful access to emergency services and/or temporary shelter as a victim of domestic violence, and which do not impose an undue burden on the residential program for victims of domestic violence.
- (n) Resident means any victim of domestic violence who receives temporary shelter and emergency services in a residential program for victims of domestic violence.
- (o) Residential program for victims of domestic violence, residential program, or program means any residential program approved by the Office and operated by a not-for-profit organization for the purpose of providing temporary shelter, emergency services and care to victims of domestic violence. Residential programs for victims of domestic violence include: domestic violence shelter, domestic violence mixed occupancy shelter, domestic violence sponsoring agencies, and safe home networks.

- (p) Safe home means a self-contained private residence which is owned, leased, rented, or otherwise under the direct control of a single person or family or two or more unrelated persons which has been approved by a safe home network for the purpose of providing temporary shelter to victims of domestic violence and their minor children, if any.
- (q) Safe home network means an organized network of private homes offering temporary shelter and emergency core services as defined in section 452.12 of this Part to victims of domestic violence as defined in subdivision (t) of this section, and their minor children, if any. Such network must be coordinated by a not-for-profit organization.
- (r) Service animal means an animal that has been partnered with a person with a disability, or is being trained, by a qualified person, to aid or guide a person with a disability. The tasks or work the animal does must be directly related to the person's disability. "Service Animal" does not include emotional support or comfort animals or therapy dogs, as such terms are defined in this Part.
- (s) Therapy dog means any dog that is trained to aid the emotional and physical health of patients in hospitals, nursing homes, retirement homes, or other settings, and is actually used for such purpose.
- (t) Victim of domestic violence means any person over the age of sixteen, any married person or any parent accompanied by his/her minor child(ren) or dependents in situations in which such person or such person's child is a victim of an act which would constitute a violation of the Penal Law, including, but not limited to acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted assault, attempted murder, criminal obstruction of breathing or blood circulation, strangulation, identity theft, grand larceny or coercion; or through acts including and not limited to, intimidation, coercive control, emotional and psychological abuse and behavior, expressive and psychological aggression, financial abuse, harassment, tormenting behavior, disturbing or alarming to such person or such person's child; and
 - (1) such act or acts have resulted in actual physical or emotional injury or have created a substantial risk of physical or emotional harm to such person or such person's child; and
 - (2) such act or acts are or are alleged to have been committed by a family or household member. Family or household members means the following individuals:
 - (i) persons related by blood or marriage;
 - (ii) persons legally married to one another;
 - (iii) persons formerly married to one another regardless of whether they still reside in the same household;
 - (iv) persons who have a child in common regardless of whether such persons are married or have lived together at any time;
 - (v) unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at

regular intervals lived in the same household; or

- (vi) unrelated persons who have had intimate or continuous social contact with one another and who have access to one another's household.

452.3 Application for operating certificate.

- (a) No place, person, association, corporation, institution or agency may operate a residential program for victims of domestic violence without a current certificate issued by the Office.
- (b) All applications for a certificate to operate a residential program for victims of domestic violence must be made to the Office in the manner prescribed in this Part and on forms furnished by the Office.
- (c) Upon request, the Office will furnish application forms and a list of required supporting documentation necessary to complete an application for an operating certificate.
- (d) Applicants for a certificate to operate a residential program for victims of domestic violence must submit all documentation required in section 452.4 of this Part within 90 days of the date of filing an application with the Office. Failure to comply with these requirements will be considered a withdrawal from the application process, unless the Office extends such time period.
- (e) Written notice of any omissions or deficiencies in the application or supporting documentation will be given by the Office to the applicant.
- (f) An applicant for a certificate to operate a residential program for victims of domestic violence or a residential program for victims of domestic violence may submit to the Office an alternative plan to satisfy any non-statutory requirement of this Part. The plan must include the regulatory requirement involved and how the alternative plan will satisfy the intended purpose of the requirement. The Office must approve the alternative plan where the Office determines that such plan satisfies the intent of the regulatory requirement.
- (g) A review to determine the applicant's compliance with Office requirements will be conducted by the Office after the receipt of the application and all required supporting documentation.
- (h) A notice of approval or denial of the application will be issued by the Office after the completion of the review and, if the application is approved, an operating certificate will be issued to the applicant.
- (i) If an application is denied, the Office will give written notice of the denial to the applicant, informing the applicant of the reasons for the denial, and of the applicant's right to request a hearing before a hearing Officer designated by the Office in accordance with the procedures set forth in Part 343 of this Title.
- (j) 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 the written notice of denial. The Office will respond to an applicant's request for a hearing within 90 days after the receipt of the request for a hearing.

452.4 Required documentation in support of an application to operate a residential program for victims of domestic violence.

The completed application to the Office must include the following:

- (a) the name of the residential program;
- (b) the type of residential program for victims of domestic violence which the applicant seeks to operate;
- (c) with the exception of safe home networks, safe homes, domestic violence sponsoring agencies, and safe dwellings, evidence of inspection and approval from applicable local authorities and officials, regarding compliance with health, sanitation, fire safety and building code requirements;
- (d) the name and address of the not-for-profit organization operating the residential program, and, where applicable, either:
 - (1) a copy of the articles of association and proof of Federal tax-exempt status; or
 - (2) a copy of the certificate of incorporation and verification of filing with the Department of State for incorporation;
- (e) satisfactory evidence of finances sufficient to operate properly and in accordance with this Part, including:
 - (1) a projected annual budget showing anticipated operating expenses and income; and
 - (2) a copy of the most recent financial report prepared by a certified public accountant or most recent State and Federal tax returns of the applicant organization. If an organization has been in existence for less than one year and if neither are available, a statement of the organization's assets and liabilities, signed by an Officer of the organization;
- (f) a description of the residential program and services which must include the following:
 - (1) a description of how the required emergency core services for the particular program will be delivered, the methods by which persons will gain access to the program, intake procedures for persons in need of temporary shelter, and rules regarding length of stay for persons receiving temporary shelter;
 - (2) a description of community support and efforts to establish community linkages with police, family courts, local social services district, other domestic violence programs, local animal welfare organizations, and other community agencies;
 - (3) a copy of the resident's rights and responsibilities, and the program's responsibilities;
 - (4) a plan for the safety and security of residents and a statement indicating the extent to which the site location is known to the general public;

- (5) a description of disaster and emergency plans which must include provision for obtaining emergency medical care;
 - (6) a description of available meal provisions;
 - (7) with the exception of safe home networks and domestic violence sponsoring agencies, a description of the method and frequency of fire drills; and
 - (8) any other information required by the Office to further the purposes of this Part;
- (g) a description of staffing which must include:
- (1) copies of all policies showing compliance with the requirements of section 452.11 of this Part;
 - (2) a description of the pattern of supervision of staff by the director or other responsible person, schedule and content of training and use of training resources (such as other agencies, conferences, college courses); and
 - (3) a sample of all forms used by the program including admission forms, resident's rights and responsibilities, and program responsibilities; and
- (h) with the exception of safe home networks and domestic violence sponsoring agencies, a description of the proposed or actual facility site, including its location, construction characteristics, use of the building for purposes other than the provision of services to victims of domestic violence and a diagrammatic floor plan of the entire facility.
- (1) The diagram must be labeled with the planned use of all program areas, and must indicate plumbing fixtures, such as toilets, sinks and bathtubs and/or showers and the means of egress.
 - (2) The diagram must also reflect the facility's security plan.
 - (3) A facility may not expand its services or increase its capacity unless it has received prior written approval of the Office and has complied with all applicable Office regulations.

452.5 Operating certificates: general provisions, enforcement and hearings

- (a) Issuance. An operating certificate will be issued to a residential program for victims of domestic violence only when it has been determined after a review of the completed application and supporting documentation submitted by the program, and an onsite inspection of the domestic violence shelter or domestic violence mixed occupancy shelter by the Office, has determined the program is in compliance with all applicable regulations.
- (b) Duration. An operating certificate will be valid for up to three years from date of issuance and only for the premises specified and may be limited, suspended or revoked at any time for failure to comply with regulations of the Office or for just cause.
- (c) General provisions.
 - (1) The certificate must be prominently displayed in the shelter, domestic violence

program or mixed occupancy shelter, network office, or sponsoring agency office.

- (2) The certificate will specify the maximum number of residents who may be in residence at the residential program for victims of domestic violence at any one time, or the maximum number of safe homes or safe dwellings which may be approved. For domestic violence sponsoring agencies, the certificate will also specify the maximum number of residents for each safe dwelling at any one time.
 - (3) There will be no fee for the issuance of an operating certificate.
 - (4) Certificates are not transferable.
- (d) Enforcement actions. Any violation of applicable statutes or regulations may be a basis for OCFS to limit, suspend, revoke or terminate an operating certificate, or for just cause.
- (1) As outlined in section 452.8(f) of this subpart, the Office must provide a written report to the provider identifying any regulatory violations and a time frame for the correction. Failure on the part of the provider to complete corrective action within the timeframe specified or approved by the Office will constitute sufficient cause for the Office to commence enforcement action to limit, suspend or revoke an operating certificate.
 - (2) The Office may limit an operating certificate to restrict any aspect of program operations until deficient conditions are corrected, and the program is deemed to be in compliance with regulations. Limiting an operating certificate includes, but is not restricted to, actions such as the closing or reducing of program admissions, reducing the total number of persons who may receive services through the program or eliminating or modifying any aspect of the program or program services.
 - (3) The Office may suspend an operating certificate for a period of time until the program can demonstrate that it has corrected the endangering conditions or deficiencies and is in compliance with the regulations. During the period of suspension, a program must not provide residential services to eligible individuals.
 - (4) The Office may revoke an operating certificate for the remainder of its designated term based upon the presence of endangering conditions or significant deficiencies. In this situation, the residential program is deemed to be closed and is no longer authorized to provide residential services to eligible individuals.
- (e) Hearings.
- (1) Before an operating certificate is limited, suspended, or revoked, the Office will provide at least 30 days prior notice to the provider or applicant of the time and place of the hearing in accordance with the procedures established in Part 343 of this Title.
 - (i) The limitation, suspension or revocation will become final if the applicant or holder fails to request an adjournment within the 30-day period or does not appear at the hearing.
 - (ii) The Office may require the program to post the revocation of licensure on

the premises of the facility.

- (2) Notwithstanding paragraph (1) of this subdivision, an operating certificate may be temporarily limited or suspended in its terms without a hearing upon a finding by the Office that health, safety or welfare of a resident is in imminent danger. In such circumstances, the Office will provide written notification to the residential program.
 - (i) The provider has 10 days from the date of the temporary limitation or suspension of the operating certificate to request a hearing from the Office. Such request must be made in writing.
 - (ii) Failure to contest the temporary limitation or suspension will be prima facie evidence that the finding of imminent danger is valid, and the temporary suspension will continue in effect until the Office has determined the condition requiring such suspension is corrected or the operating certificate is permanently revoked or terminated.
 - (iii) The temporary suspension will continue in effect until the Office has determined that the condition requiring such suspension is corrected, the operating certificate is permanently revoked or terminated, or a hearing decision orders the lifting of the suspension or limitation.
- (3) A notice of hearing will be served in person or by certified mail addressed to the provider at the last address provided to the Office, at least 30 days prior to the date of the hearing. The notice will specify the time and place of the hearing, the proposed action and the charges which are the basis for the proposed actions. The charges will specify the statutes, rules and regulations, or other applicable requirements of law with which the provider failed to comply and will include a brief statement of the facts pertaining to such noncompliance.
- (4) When an enforcement is commenced against a provider that operates multiple residential domestic violence facilities, the Office may assess the health and safety of the residents in the other domestic violence facilities operated by the provider and take appropriate action to protect the health and safety of the residents when warranted.

452.6 Renewal of the operating certificate.

- (a) A provider of a residential program for victims of domestic violence must submit an application for renewal of the operating certificate to the Office at least 45 days prior to the expiration of said certificate. Such application must be made on the forms prescribed by the Office and, with the exception of safe homes and safe dwellings, must include a copy of the most recent local inspection of the facility as required by section 452.4(c) of this Part.
- (b) Failure to submit an application for renewal of an operating certificate within the time limits established by subdivision (a) of this section may, at the discretion of the Office, constitute grounds for denial of any subsequent application for renewal.
- (c) In accordance with the State Administrative Procedure Act (SAPA) Section 401, when a provider has submitted an application for renewal in a timely manner, the existing operating certificate will not expire until the application has been finally determined by

the Office.

- (d) Renewal will be dependent upon current fiscal viability, demonstration of the continued ability of the provider to operate the residential program in compliance with regulations, and, for programs for which section 452.4 (c) of this Part applies, demonstration of satisfactory compliance with the State and local health, sanitation, fire safety and building code requirements, where applicable.
- (e) Following review of the renewal application and any required inspection report, the Office will determine whether the residential program is in compliance with Office regulations, and if a satisfactory recommendation is issued, the operating certificate will be renewed for a period up to, but no more than, three years.
- (f) If the Office proposes to deny the application for renewal, the provider will be notified of the reasons for denial, the right to a hearing and the date, time and place of the hearing, in accordance to the procedures established by Part 343 of this Title. The Office may take additional enforcement action concurrent with the denial.
 - (1) Any violation of applicable statutes or regulations may constitute the basis for denial of the renewal application.
 - (i) The notification for such hearing must be to the provider at least 30 days prior to the date of the hearing, in accordance to the procedures of Part 343 of this Title.
 - (ii) The denial will become final if the provider fails to request an adjournment within the 30-day period or does not appear at the hearing.

452.7 Amendment of the operating certificate.

- (a) The provider must submit an application to amend an operating certificate in such manner and on such forms as prescribed by the Office prior to:
 - (1) any change in any information located on the operating certificate; or
 - (2) any requested change to facility's capacity as defined in 452.5(c)(2) of this Part;
- (b) The Office must be notified 30 days in advance of the closure of the program. Upon closure, the provider must surrender its operating certificate to the Office.
- (c) Failure to notify the Office of those changes listed in subdivisions (a) and (b) of this section will constitute grounds for the limiting, suspending or revoking of an operating certificate.

452.8 Supervision and inspection by the Office.

- (a) Residential programs for victims of domestic violence are subject to the inspection and supervision of the Office. The purpose of such supervision and inspection is to ensure that such programs are in compliance with all applicable State and local laws and regulations, and to determine that the services provided are adequate, appropriate, and in accordance with the operating certificate.

- (b) With the exception of safe home networks, which only must allow the Office access to safe homes under circumstances specified in section 454.11 (e) of this Title, residential programs for victims of domestic violence must allow the Office, as specified in subdivisions (c) and (d) of this section, access to any building or property owned, leased, rented, or directly controlled by the program and any books, papers, employees, and residents of the program in order to determine, and if necessary, effect compliance with applicable laws and regulations and with the provider's application and operating certificate. Failure to allow such access constitutes grounds for the limitation, suspension, or revocation of an operating certificate and any individual that intentionally refuses to allow such access to the Office shall be guilty of a misdemeanor pursuant to section 460-c (5) of the Social Services Law.
- (c) Inspection means the process of inquiry and investigation and includes periodic announced or unannounced onsite investigations, as set forth in subdivision (d) of this section, private interviews with residents, review and investigation of books and records, compilation of written, photographic or other physical evidence and such collateral contact as the Office deems necessary to determine compliance with applicable laws or regulations. Interviews with residents are voluntary. A resident will be interviewed only when the resident has consented to a private interview.
 - (1) Access to personally identifying information contained in books and records is permitted only upon informed, written, and reasonably time-limited consent from the resident. Reasonable accommodations must be made for those who may be unable, due to disability or other functional limitation, to provide consent in writing.
 - (2) Nothing in this section shall prohibit access to books and records containing personally identifying information when a report of child abuse or maltreatment has been made.
- (d) The Office may conduct unannounced inspections:
 - (1) upon the receipt of any complaint involving a residential program for victims of domestic violence which is related to the operation of the program;
 - (2) in relation to the initial application or a renewal of an operating certificate of any residential program for victims of domestic violence; or
 - (3) as follow-up to determine whether corrective action has been taken on deficiencies noted during previous inspections.
 - (4) as follow-up to a report of the occurrence of any reportable incident to the Office including and not limited to: death of resident while in shelter, fire, gas leak, carbon monoxide leak, water main break and/or structural damage to the facility.
- (e) Inspections, other than those specified in subdivision (d) of this section, will be conducted upon at least 24-hour notice to the provider of the residential program for victims of domestic violence.
- (f) A written report of an inspection will be sent to the provider and will include:
 - (1) identification of any areas which are in violation of requirements of this Part;
 - (2) the steps which must be taken to correct any violations; and

- (3) the timetable for correction.

Reports of inspection may require immediate corrective action by the provider to protect the health, safety and welfare of residents.

- (g) Upon receipt of the report of inspection, the provider must:
 - (1) correct the violations in accordance with the timetable for correction; or
 - (2) in the event that correction cannot be completed within the time frame set forth in the report, obtain immediate written approval from the Office to modify the corrective action plan. A request for modification may be denied if the Office has cited conditions which could endanger the health, safety, and welfare of residents. In such cases, admissions to the program will be limited or prohibited until corrective action is implemented.
- (h) Failure on the part of the provider to complete corrective action within the timetable specified or approved by the Office will constitute sufficient cause for the Office to limit, suspend or revoke an operating certificate.

452.9 General operational standards.

(a) Admission standards.

- (1) With the exception of those persons described in paragraph (2) of this subdivision and to the extent space is available, residential programs for victims of domestic violence must provide emergency services and temporary shelter to any victim of domestic violence, as defined in section 452.2(t) of this Part. Residential programs must provide appropriate available services for all victims of domestic violence, regardless of race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, marital status, familial status, disability, predisposing genetic characteristics, alien or non-qualified alien, or limited English proficiency.
- (2) Programs may not accept or retain any person who:
 - (i) is likely to cause danger to himself/herself or others or to substantially interfere with the health, safety, or provision of services to other residents;
 - (ii) is in need of a level of medical, mental health, nursing care or other assistance that cannot be rendered safely and effectively by the particular program, or that cannot be reasonably provided with a reasonable accommodation as defined in Part 452.2(m) of this Title and paragraph (4) of this section, or through the assistance of other community resources;
 - (iii) has a generalized systemic communicable disease, as identified by the New York State Department of Health or a local health department, or a readily communicable local infection which could be easily transmitted under normal shelter conditions to other residents and cannot be properly isolated.

- (iv) refuses to agree, accept, or adhere to the rights and responsibilities as specified in paragraph (7) of this section.
- (3) Prior to the admission of a person to a residential program for victims of domestic violence, a face-to-face interview may be conducted with the potential resident to determine whether such person is a victim of domestic violence as defined in section 452.2(t) of this Part, whether such person fits any of the criteria described in paragraph (2) of this subdivision, and whether the individual program can appropriately meet such person's physical and personal needs. Persons who do not meet admission criteria must be referred to appropriate community resources.
- (4) Reasonable accommodations may include changes to the physical environment, policies/procedures or practices which permit a domestic violence victim or his/her child with a disability to be able to receive emergency services and temporary shelter in a residential program for victims of domestic violence if such changes are readily achievable. Readily achievable means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include:
- (i) The nature and cost of the change needed; and
 - (ii) The overall financial resources of the residential program for victims of domestic violence; the number of persons served at such facility; the effect on expenses and resources or the impact otherwise of such action upon the operation of the facility; the number, type and location of its facilities.
- (5) Service animals and therapy dogs.
- (i) Service animals and therapy dogs must be allowed to accompany domestic violence victims to a residential program for victims of domestic violence provided that the service animal does not impose an undue burden on the residential program for victims of domestic violence. Service animals and therapy dogs must be under control of the domestic violence victim. Care and supervision of service animals and therapy dogs are the responsibility of the domestic violence victim, including toileting, feeding, grooming and veterinary care.
 - (a) An undue burden may include situations where:
 - (1) the service animal or therapy dog poses a direct threat to the health or safety of others, has a history of aggressive behavior, or is not under the control of the domestic violence victim.
 - (2) accommodating the accompaniment of the service animal or therapy dog would create significant difficulty or expense to the residential program for victims of domestic violence, taking into consideration the overall size and budget of the residential program for victims of domestic violence.

- (b) If the residential program for victims of domestic violence determines that accompaniment by the service animal or therapy dog would constitute an undue burden on the residential program, the program must make reasonable efforts to facilitate placement of the service animal or therapy dog at an off-site animal care facility, or to find another suitable placement for the victim of domestic violence and their service animal or therapy dog.
 - (ii) Therapy dogs shall be allowed within the residential program for victims of domestic violence for the purpose of providing therapeutic services.
 - (iii) Residential programs for victims of domestic violence may have policies that permit residents to have emotional support / comfort animals and/or pets accompany residents.
- (6) Where an adult or child resident appears to be physically injured or seriously ill and/or makes statements indicating the possibility of serious physical injury or illness such resident must be offered a referral for a health examination conducted by an appropriate medical or mental health professional within 48 hours of admission to a residential program for victims of domestic violence.
- (7) Within the first working day following admission to a residential program for victims of domestic violence, the program must seek to obtain the informed consent of each adult resident regarding the rights, responsibilities and rules of the program governing day-to-day life and activities including the maximum length of stay in such program and the conditions for discharge of residents from the program.
- (8) Additional requirements for rights and responsibilities utilized by a safe home network and a domestic violence sponsoring agency are set forth in sections 454.6 and, 455.5 of this Title, respectively.
- (9) Within the first working day following admission to a residential program for victims of domestic violence, the program must provide the resident with a notice of the following, including and not limited to, rights and responsibilities:
 - (i) Resident's Rights
 - (a) the right of the resident to receive confidential services and to reside in a safe and secure environment;
 - (b) the right to send and receive mail, have or refuse private written, verbal or electronic communications, including the right to leave the facility, safe home or safe dwelling. Any limitations on the use of the facility, safe home or safe dwelling for such meetings or communications including prior notice, hours of access, or access to private areas or any outright prohibition must be set forth in the resident rights and responsibilities;
 - (c) the right to leave and return to the facility, safe home or safe dwelling at reasonable hours in accordance with the written rights

and responsibilities of the program;

- (d) the right to confidential treatment of personal, social, financial, and medical records as well as any other information which may result in the disclosure of the presence of the resident at the program, except where contrary to any law or regulation;
- (e) the right to receive courteous, fair, respectful and responsive services designed to effectively meet the needs of individuals from diverse cultural backgrounds and experiences;
- (f) the right to present grievances on one's own behalf, or on behalf of other residents, to the program operator or operator's designee, the local social services district and/or the Office without fear of reprisal and the procedures to voice such grievances;
- (g) the right to manage one's own financial affairs, including information regarding public assistance and care so that the resident can make an informed decision whether to apply for benefits, including what benefits are available, what personally identifying information is required for the application, and how that information will be used;
- (h) the right to be free from restraint or confinement;
- (i) the right to exercise one's civil rights, including the right to religious liberty;
- (j) a victim of domestic violence with a disability has the right to be accompanied by a service animal. A person who is a handler of a therapy dog has the right to be accompanied by their therapy dog. If it is unclear if the animal is a service animal, the program may ask if it is a service animal required because of a disability. The program may also ask what work or task the animal has been trained to perform. A person with a service animal is not required to provide proof of their disability or any other proof that the animal is a service animal;
- (k) reasonable efforts must be made to facilitate placement of the service animal or therapy dog of the handler resident at an off-site animal facility in the event the animal poses a direct threat to the health or safety of others;
- (l) the right to be informed and receive a copy of the program's policies that prohibit discrimination or harassment of any person in the residential program because of the person's race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, marital status, familial status, disability, predisposing genetic characteristics, alien or non-qualified alien status, or limited English proficiency.

(ii) Resident Responsibilities

- (a) maintaining the cleanliness of their own sleeping and living areas,

including bathroom and cooking areas, if any, as well as changing linens and towels regularly;

- (b) using communal areas respectfully;
- (c) notifying facility staff of any illnesses of each member of the family;
- (d) refraining from engaging in acts which endanger the health and safety of oneself or others, or which substantially interfere with the orderly operation of the facility.

(iii) Program Responsibilities

- (a) the requirement for program employees to report all suspected cases of child abuse and maltreatment to the State central register of child abuse and maltreatment, as specified in subdivision (d) of this section;
- (b) the availability of and assistance in accessing legal support and advocacy;
- (c) to inform residents of the types of services available through the program and the frequency with which such services are offered, including whether storage facilities to secure possessions are available;
- (d) the right of programs to discharge residents who are disruptive of the program's operation or who are likely to cause danger to himself/herself or others or to substantially interfere with the health, safety, or provision of services to other residents, household members, and/or staff;
- (e) to inform residents that in accordance with Social Services Law § 460 et. seq., and section 452.8(c) of this Part the program must allow the Office access to the grounds, buildings, books, papers, employees, and residents of the program for the purpose of supervision and inspection.

(b) Records and reports.

- (1) Programs must maintain individual case records, by individual resident or by adult resident and related family member, which shall reflect that they have asked for the information below, provided, however, that nothing shall require a resident to answer any information as a condition to receive services:
 - (i) the resident's prior home address and listing of family members receiving residential services from the program;
 - (ii) identification of person or persons to be contacted in case of emergency;
 - (iii) referrals for any medical or mental health services of resident(s) pursuant to paragraph (a)(6) of this section;

- (iv) information on the status of any court proceeding to which the resident is a party or a complainant if such proceedings are directly related to the reasons the resident is in need of a residential program for victims of domestic violence;
 - (v) inquire about any special medical conditions or medications prescribed for any resident family members, the prescribed regimen to be followed, and the names and telephone numbers of medical doctors to contact should an emergency arise concerning these conditions;
 - (vi) the resident's description of the situation which caused the resident to enter the program as a victim of domestic violence;
 - (vii) entries indicating the dates and the emergency core services provided pursuant to section 452.12 of this Part; and
 - (viii) where appropriate, documentation that a transition plan has been discussed with the resident, which includes[.]; discussion on community services and programs which may be helpful to the individual resident upon departure and documentation of any referrals to other residential programs for victims of domestic violence.
- (2) The program must maintain non-personally identifying information for the purpose of reimbursement from a social services district as provided in section 452.10(a)(4)(c) of this Part.
 - (3) The program must maintain at the program office or the program's principal place of business, personnel records as outlined in 452.11(f)(6), (7) and (8) of this Part.
 - (4) The program must maintain at the program office or the program's principal place of business payroll records and appropriate financial records and reports accounting for the revenues and expenditures and the financial status of the program. These records must be kept in accordance with generally accepted accounting principles.
 - (5) The program must always maintain at the program office a daily roster or other mechanism to record the number of residents in the program.
 - (6) The program must maintain at the program office records of reportable incidents occurring at the domestic violence shelter, domestic violence program, safe home or safe dwelling, including a description of each incident and steps taken to control, manage or prevent the recurrence of such an incident.
 - (i) Reportable incident means an incident that, because of its severity or the sensitivity of the situation, may result in, or has the reasonably foreseeable potential to result in, harm to the health, safety or welfare of any resident and shall include but shall not be limited to: death of resident while in shelter, fire, gas leak, carbon monoxide, water main break, structural damage to the facility, etc., and must be reported to the Office within 24 hours in a form and manner prescribed by the Office.
 - (7) Operational records must be maintained for a minimum period of six years.
 - (8) The program, with the exception of safe homes, must have written disaster and

emergency plans.

- (9) Individual case records must be retained by the program upon change of staff or ownership and must be retained for a minimum of six years after the resident leaves the program. If the resident returns for residential services as a result of a new domestic violence incident, the record retention period starts over.
 - (10) Once a program determines that record(s) may be destroyed, it must do so in a manner as to maintain confidentiality of the records.
- (c) Length of stay.
- (1) Maximum length of stay will be determined in accordance with section 408.6 of the Part. Potential residents of each program must be informed of the program's length of stay at their initial admission interview, and all counseling of the residents must recognize the need to secure safe and appropriate alternative housing.
 - (2) A former resident of a residential program for victims of domestic violence may reenter a residential program for victims of domestic violence if such person is a victim of domestic violence as defined in section 452.2(t) of this Part as a result of a new domestic violence incident occurring subsequent to the previous stay at a residential program for victims of domestic violence. For purposes of calculating the length of stay of such residents, the day of readmission will be counted as day one.
- (d) Reporting of child abuse.
- (1) Employees of residential programs for victims of domestic violence are considered to be employees of a publicly funded emergency shelter for families with children, and, in accordance with the provisions of sections 413 and 415 of the Social Services Law, must report any incidents of suspected child abuse or maltreatment to the Statewide Central Register of Child Abuse and Maltreatment (SCR), or cause such a report to be made, when such employee has reasonable cause to suspect that a child, parent or other person legally responsible for a child comes before them in their professional or official capacity and provides information that gives the employee a reasonable basis to suspect that a child is being abused or maltreated. This must be done in the following manner:
 - (i) Residential programs for victims of domestic violence must make an immediate report to the SCR by telephone, followed by a written report within 48 hours, in the form and manner prescribed by the Office, to the child protective service of the social services district in the county in which the child resided at the time of the suspected incident.
 - (ii) After making the initial report, the reporting employee must immediately notify the director of the program or a designee that the report was made.
- (e) Incorporated not-for-profit organization; general terms and conditions.

(1) Governing board

- (i) The legally constituted board of directors or other governing board of an agency shall manage the affairs of such agency in accordance with applicable provisions of the Not-For-Profit Corporation law, and the regulations and policy directives of the Office, the agency's certificate of incorporation, any amendments thereto, and duly adopted bylaws. In the event an agency operates more than one residential program for victims of domestic violence, the governing board may appoint a separate advisory body for each residential program for victims of domestic violence operated by such agency.
- (ii) So that the board of directors or other governing board of an agency may properly oversee the affairs of the agency, such board must include a member or members with knowledge of, or experience in, the types of programs operated by the agency. Such board should also include a member or members with knowledge of financial matters.
- (iii)
 - (a) No member of the board of directors or other governing board of an agency or any of its advisory bodies may engage, directly or indirectly, in any business or activity that is in substantial conflict with the proper discharge of his or her duties as a member of such governing board or advisory body.
 - (b) The board of directors or other governing board must adopt a conflict of interest policy. The policy must cover conflicts of interest, including related party transactions in which a related party has a financial interest.
- (iv) The governing board must:
 - (a) appoint a chief executive officer, by whatever title designated, who shall be responsible to the governing board for the proper administration of the agency;
 - (b) make or cause to be made, receive and preserve such records as may be required;
 - (c) meet as often as may be necessary, but no less than four times a year, to oversee and provide for the proper orientation of the agency and to oversee and provide for the proper delivery of services to victims of domestic violence;
 - (d) maintain and keep, at the administrative office of the agency, minutes of its meetings;
 - (e) make periodic reviews of the agency's written policies, review its services and programs to determine whether they meet the needs of current or prospective victims of

domestic violence, and record such reviews in the minutes;
and

- (f) develop and maintain a program of orientation and training for all new members of such board.
 - (v) The bylaws of an agency shall provide for the appointment of such standing committees as may be appropriate and proscribe their functions and responsibilities.
 - (vi) The governing board or committee thereof shall be permitted and encouraged to visit each program and facility operated by such agency, at least annually, in a manner which affords confidentiality to such program's residents, to review the operation of such programs and facilities as well as the quality of services provided to victims of domestic violence.
- (2) Finances.
- (i) The governing board of an agency must make provision for:
 - (a) adequate financial resources for the operation of such agency's programs;
 - (b) adequate supervision of such agency's property, both real and personal;
 - (c) a separate annual budget for each program operated by such agency with an appropriate allocation for administrative and centralized costs.
 - (ii) Each agency shall submit financial forms and reports to the Office in accordance to Part 408 of this Title.
- (3) Chief executive officer.
- (i) The chief executive officer shall direct, evaluate and coordinate all aspects of an agency's programs. This officer shall be responsible for the daily administration of the agency in accordance with the regulations and policy directives of the Office and all other applicable requirements of Not-For-Profit Corporation law and of the policies of the governing board; for supervision of the services provided to victims of domestic violence and their children; for admissions and discharges; for continuing analysis and improvement of programs in light of the needs of victims of domestic violence receiving services; for staff development and training; for selection and dismissal of all employees, volunteers, consultants, and contractors; for preparing the annual budget; for preparation of all required reports; for exploring and initiating new programs and services when appropriate; and for the coordination with other programs in the community.
 - (ii) This chief executive officer shall have appropriate training and experience in the human services field, as determined by the board of directors.

452.10 Confidentiality.

- (a) Access to information. All records, books, reports and papers established and maintained pursuant to this Part and Parts 453, 454 and 455 of this Title relating to the operation of residential programs for victims of domestic violence and to the residents of such programs are confidential. Access to such information will be permitted only as follows:
- (1) the Office will have full access to all books, records, reports and papers relating to the operation of residential programs for victims of domestic violence and to the residents of such programs. Access to any client personally identifiable information for purposes of inspection and supervision is only permitted as described in section 452.8(c)(1) of this Part;
 - (2) any person or entity will have access to information as permitted by an order of a court of competent jurisdiction;
 - (3) upon informed, written, reasonably time-limited consent of a resident, a residential program for victims of domestic violence will have access to information maintained in a resident's case record by another residential program for victims of domestic violence, excluding any information identifying the actual street address where the resident is sheltered, in those situations where a resident continues to be in need of a residential program for victims of domestic violence beyond the current program's length of stay policy and the resident has provided informed, written, reasonably time-limited consent for their personally identifying information to be shared for the purpose of a referral to another available residential program for victims of domestic violence;
 - (4) a local social services district will have access:
 - (i) to fiscal records and non-identifiable personal information which is deemed necessary by the Office to establish an approved per diem rate pursuant to section 131-u of the Social Services Law. This will not include access to information identifying the actual street address where residents are being sheltered or any identifying information on safe home providers;
 - (ii)
 - (a) to resident case records, including any resident identifiable information, for purposes of investigating a report of suspected child abuse and maltreatment pursuant to title 6 of article 6 of the Social Services Law;
 - (b) to resident case records, excluding information identifying the actual street address where residents are being sheltered, only when a resident has voluntarily given written authorization for the release of such information. A local social services district cannot require that a resident sign such authorization as a condition for receiving public assistance or services; and
 - (c) for the purposes of reimbursing a residential program for victims of domestic violence the approved per diem rate for those victims that choose not to apply for public assistance and care, the following non-identifying personal information:

- (1) the date of admission of the resident for whom an approved per diem rate will be paid;
 - (2) the date of admission of any minor children for whom an approved per diem rate will be paid;
 - (3) the business address of the residential program for victims of domestic violence;
 - (4) the date the resident departed from the program;
 - (5) as applicable, the date of the resident's minor children departed from the program;
 - (6) information identifying the social services district of fiscal responsibility on the form furnished by the Office;
- (d) for the purpose of reimbursing a residential program for victims of domestic violence the approved per diem rate for those victims that choose to apply for public assistance and provide informed written, reasonably time-limited consent to their personally identifying information, the following information:
- (1) the name of the resident for whom an approved per diem rate will be paid;
 - (2) the name of any minor children for whom an approved per diem rate will be paid;
 - (3) the business address of the residential program for victims of domestic violence;
 - (4) the date the resident, and, as applicable, minor child, entered the program;
 - (5) the date of the resident's, and, as applicable, minor child's departure; and
 - (6) other relevant information which identifies a resident's service and safety needs, and which is necessary to ensure the provision of appropriate services to the resident;
- (5) a resident as defined in section 452.2 of this Part will have access to all information maintained in his/her resident case record maintained in accordance with section 452.9(b)(1) of this Part;
 - (6) an employee or official of a Federal, State or local agency will have access to records relating to the financial operation of a residential program for victims of domestic violence other than to a resident's case record and to records identifying the actual shelter site for purposes of conducting a fiscal audit.
 - (7) a program may permit a person engaged in a bona fide research purpose access

to information consistent with applicable law and regulations; provided, however, that in no case will such person have access to personally identifying information regarding persons receiving services from the program unless such persons have provided informed, written, time-limited consent to their personally identifying information.

(b) Disclosure.

- (1) An agency or person given access to any books, records, reports and papers relating to the operation of a residential program for victims of domestic violence pursuant to subdivision (a) of this section or to the residents of such program must not divulge or make public such information except:
 - (i) where authorized by a court of competent jurisdiction;
 - (ii) where expressly authorized by a resident of a residential program for victims of domestic violence;
 - (iii) to a person or entity otherwise authorized to have access pursuant to subdivision (a) of this section for purposes directly related to the administration of a residential program for victims of domestic violence;
 - (iv) a program may permit a person engaged in bona fide research to disclose the findings of such research to the public; provided however, that in no case may information related to the location of the residential program for victims of domestic violence be disclosed, and personally identifying information pertaining to any person receiving services from the residential program, may only be disclosed provided informed, written, reasonably time-limited consent has been received from the individual who the personally identifying information pertains to; or
 - (v) where otherwise authorized by statute.
- (2) Employees of the New York State Office of Children and Family Services and a local social services district given access to information pursuant to this section who re-disclose information in a manner which is not consistent with the provision of this Part are subject to disciplinary action in accordance with appropriate collective bargaining agreements and applicable law and regulation.

(c) Confidentiality of facility address.

- (1) Each program must maintain a business mailing address separate and distinct from the actual address where residents are sheltered. When releasing the address of any resident, programs must release only the business address of the program and not the actual address where the resident is being sheltered. For the purposes of applying for and receiving public assistance, medical assistance and/or community services, residents may use the business mailing address of the program; however, they may not use the actual street address of the shelter.
- (2) All information related to the general location or specific street address of a structure anticipated to house or housing a residential program for victims of domestic violence contained in any application or other document submitted to a state or local agency or any instrumentality thereof shall be kept confidential and not subject to release or disclosure in whole or in part. A state or local agency or

any instrumentality thereof shall deny any request for such information made pursuant to Article 6 of the Public Officers Law in accordance with Section 87(2)(f) of such law.

- (3) A state or local agency or any instrumentality thereof and its employees may disclose the general location or specific street address of a structure anticipated to house or housing a residential program for victims of domestic violence only where authorized by a Court of competent jurisdiction or otherwise expressly permitted by statute or regulation.
- (d) Local district access to residents.
- (1) A local social services district will have access to a resident of a residential program for victims of domestic violence at the facility or safe home only under the following circumstances:
 - (i) where authorized by an order of a court of competent jurisdiction;
 - (ii) notwithstanding the requirements of this Title, for purposes of investigating a report of suspected child abuse or maltreatment in which the subject of a report is a resident of a residential program for victims of domestic violence or a safe home provider. Nothing in this subparagraph prevents a local child protective service from interviewing residents of a residential program for victims of domestic violence at a location other than the facility or safe home; and
 - (iii) where authorized by the policies of a residential program for victims of domestic violence and with the consent of the resident.

Subparagraph (2) of subdivision (d) of Section 452.10 of Title 18 is repealed.

452.11 Personnel

- (a) Review of applicants/General
 - (1) Each program must review and evaluate the background of all applicants for staff positions, whether employees or volunteers. All applicants whose backgrounds must be checked are required to provide the following:
 - (i) a statement or summary of the applicant's employment history, including, but not limited to, any domestic violence and/or human services experience;
 - (ii) a statement or summary of the applicant's educational background, including, but not limited to, any degrees, certifications and/or licenses.
 - (2) In addition, for prospective employees, volunteers and any individual who is to be hired as a consultant with the potential for regular and substantial contact with children who are in residence at the program, the program must obtain:

- (i) the information necessary to determine whether the applicant is listed on the register of substantiated category one cases of abuse or neglect maintained by the Justice Center for the Protection of Persons with Special Needs (Justice Center), pursuant to section 495 of the Social Services Law, as required by section 452.11(b) of this Subpart;
 - (ii) the information necessary to determine whether the applicant is the subject of an indicated report of child abuse or maltreatment, as required by section 452.11(c) of this Subpart;
 - (iii) a sworn statement by the applicant indicating whether, to the best of the applicant's knowledge, such applicant has ever been convicted of a misdemeanor or felony in New York State or any other jurisdiction; and
 - (iv) written informed consent from the applicant, on a form acceptable to the Division of Criminal Justice Services (DCJS), to perform a criminal history check, along with the information necessary for the program to conduct such a check.
 - (3) For prospective employees of individuals, corporations, partnerships or associations, which provide goods or services to the program and who will have the potential for regular and substantial contact with children who are in residence at the program, the program must obtain:
 - (i) the information necessary to determine whether the applicant is listed on the register of substantiated category one cases of abuse or neglect maintained by the Justice Center, pursuant to section 495 of the Social Services Law, as required by section 452.11(b) of this Subpart; and
 - (ii) the information necessary to determine whether the applicant is the subject of an indicated report of child abuse or maltreatment as required by section 452.11(c) of this Subpart.
 - (4) The program may inquire whether any current employee who has regular and substantial contact with children who are in residence at the 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 (SCR). An inquiry to the SCR regarding any current employee may be made only once in any six-month period.
 - (5) For purposes of applying the obligations created under section 495 of the Social Services Law to residential programs for victims of domestic violence, the term "regular and substantial contact with a service recipient" means the "potential for regular and substantial contact with children who are in residence at the program."
- (b) Review of applicants/Staff Exclusion List
- (1) Programs are required to check prospective employees, volunteers, consultants, and contractors with the Register of Substantiated Category One Cases of Abuse or Neglect (staff exclusion list or SEL) maintained by the Justice Center pursuant to section 495 of the Social Services Law, before determining whether to hire or

otherwise allow any person to have regular and substantial contact with children who are in residence at the program.

- (i) If an applicant is listed on the SEL, the program shall determine whether to hire or allow such a person to have regular or substantial contact with children who are in residence at the program in accordance with the provisions of subdivision (5) of section 424-a of the Social Services Law and paragraph (d) below. Such a determination may only be made after receipt of the SCR check and criminal history record check.
- (ii) If the result of the inquiry under section 495 of the Social Services Law leads to a decision to deny the application, the program shall not be required to conduct an SCR check under section 424-a of the Social Services Law.
- (iii) If an applicant is not listed on the SEL, an SCR check must be completed in accordance with section 424-a of the Social Services Law and this section.

(c) Review of applicants/SCR Check

- (1) The program must inquire of the Office whether any person who is actively being considered as an employee, volunteer, consultant or contractor and will have the potential for regular and substantial contact with children who are in residence at the program is the subject of an indicated report of child abuse or maltreatment on file with the SCR.
 - (i) Prior to making an inquiry pursuant to this paragraph, the program must notify, in the form prescribed by the Office, each 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 SCR.
 - (ii) Applicant's contact with children pending SCR results.
 - (1) Except as set forth in clause (2) of this subparagraph, a program may not permit a prospective employee, volunteer, consultant or contractor to have contact with children in residence at the program prior to obtaining the result of the SCR check.
 - (2) A prospective employee, volunteer, consultant or contractor may have contact with children in residence at the facility prior to the receipt by the program of the result of the SCR check only where such person is in the line of sight of existing staff of the program. Such person must be in the line of sight of an existing staff member for whom:

- (a) the result of an inquiry required by section 424-a of the Social Services Law has been received by the program and the program hired the existing staff member with knowledge of the result of the inquiry; or
 - (b) an inquiry was not made because such staff member was hired before July 19, 2017.
 - (iii) Fee for SCR Check.
 - (1) The Office shall charge a fee when it conducts a search of its records within the SCR to determine whether such applicant is the subject of an indicated report.
 - (2) The required fee must either accompany the inquiry form submitted to the Office 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.
 - (3) Fees must be paid to the "New York State Office of Children and Family Services." For social services districts electing to have the fees subtracted from their claims for reimbursement submitted pursuant to section 601.1 of this Title, the fees will be subtracted quarterly to match the number of inquiries made.
- (d) If an applicant, employee, consultant or volunteer about whom the program has made an inquiry is found to be the subject of an indicated report of child abuse or maltreatment or is listed on the SEL, the program must determine, on the basis of information it has available and in accordance with guidelines developed and disseminated by the Office, whether to hire, retain or use the person as an employee, volunteer, consultant or permit the person providing goods or services to have access to children who are in residence at the program. Whenever such person is hired, retained, used or given access to children, the program 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 and services with access to children being cared for by the program.
- (e) Criminal history record check
 - (1) Every residential program for victims of domestic violence is required by Social Services Law § 460-h to obtain criminal history background checks for prospective employees, assistants, volunteers and consultants who will have the potential for potential for regular and substantial contact with children in residence at the program through DCJS, in accordance with any applicable laws, regulations, policies and procedures. The individual who is subject to the

criminal history background check must be informed, in writing, that the program is required to request a check of his or her criminal history information and assess the results of the check in accordance with 460-h of the Social Services Law. The program must identify an authorized person who is designated by the program to request, receive and check criminal history information in accordance with this Part.

- (i) Upon receipt of complete information from the residential program for victims of domestic violence, including fingerprints and applicable fees, in the form and manner prescribed by DCJS, DCJS shall provide the criminal history information to an authorized person for any person applying to be an employee, assistant, volunteer or consultant who will have the potential for regular and substantial contact with children in residence at the program. This information shall only be retained during the duration of the application process. Thereafter, it must be destroyed in accordance with guidance from DCJS.
 - (ii) If an applicant has been convicted of a crime, the program must make a written safety assessment, in accordance with paragraph (2) of this subdivision and guidelines developed and disseminated by the Office, to determine whether to hire or use the person as an employee, volunteer or consultant. If the program determines it will hire or use the person, the program 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.
 - (iii) Only the authorized person or his or her designee and the relevant person applying to be an employee, volunteer or consultant shall have access to the New York State criminal history information received by a program. Criminal history information may be disclosed by the authorized person to other individuals who are directly participating in any decision regarding the employee, volunteer or consultant's application.
 - (iv) The authorized person and any other individual to whom such criminal history is disclosed shall keep this information strictly confidential, in accordance with the requirements of DCJS and any applicable laws, regulations, policies and procedures.
 - (v) Any party who willfully permits the disclosure of any confidential criminal history information obtained from a criminal history information check pursuant to this section to parties not authorized to receive same shall be guilty of a misdemeanor.
- (2) In accordance with Article 23-A of the Corrections Law and subdivisions (15) and (16) of section 296 of the Executive Law, a written safety assessment performed

in accordance with this section shall include, but not be limited to, the following factors:

- (i) The public policy of the state to encourage the licensure and employment of persons previously convicted of one or more criminal offenses.
 - (ii) The specific duties and responsibilities of the employment sought by the applicant;
 - (iii) The bearing, if any, the criminal offense will have on the fitness or ability to perform one or more such duties or responsibilities;
 - (iv) The time which has elapsed since the occurrence of the criminal offense or offenses;
 - (v) The age of the person at the time of the occurrence of the criminal conviction or charge;
 - (vi) The seriousness of the offense or offenses;
 - (vii) Any information provided by the applicant or produced on his/her behalf regarding rehabilitation or good conduct; and
 - (viii) The legitimate interest in protecting property and the safety and welfare of children.
- (3) Prior to making a determination to deny an employment or volunteer application or the use of an assistant or consultant, the program shall afford the applicant an opportunity to explain, in writing, why the application should not be denied, within 15 calendar days from the date the notification was mailed. The prospective employee, volunteer, assistant or consultant may request an extension of up to 15 days. The opportunity for an explanation shall be sent non-electronically, in a manner of mailing that can verify the date of mailing and shall include a copy of the subject individual's criminal history information, a copy of Article 23-A of the Correction Law, and information about the individual's right to seek correction of any incorrect information contained in the criminal history and the procedure for same.
- (4) Upon receipt of a criminal history record, the program may request, and is entitled to receive, in accordance to subdivision six of section 460-h of Social Services Law, information pertaining to any crime contained in such criminal history record from any state or local law enforcement program, district attorney, parole officer, probation officer, or court for the purposes of determining whether any ground relating to such criminal conviction or pending criminal charge exists for denying an application for employment or volunteer opportunity or the use of a consultant. Where the criminal history record reveals a pending charge for any felony, the program shall hold the application in abeyance until the charge is finally resolved.

(f) Personnel policies and practices

- (1) Each program must provide a sufficient number of competent compensated employees and/or volunteers necessary to supervise, operate and maintain the premises in a safe and sanitary condition, and deliver program services to residents. There must be an employee responsible for supervising any volunteers.
- (2) Programs must develop a plan to recruit compensated employees and/or volunteers who are representative of the cultural values and ethnic composition of the community being served. This includes the recruitment of bilingual employees and/or volunteers when the program is in an area serving a significant non-English speaking population. Bilingual employees and/or volunteers must speak the language of the community being served.
- (3) There must be written job descriptions developed for each compensated employee/volunteer position. Each job description must include the title of the job, a statement of duties and responsibilities, skills needed and any special physical requirements of the job. The description must additionally specify the educational and experiential qualifications required of any applicant for the job. All compensated employees or volunteers must possess the necessary skills and training required for the job.
- (4) There must be written personnel policies which include a nondiscrimination clause, and which describe the terms and conditions of employment including hours of work, salary, vacation and sick leave, benefits, overtime policy, and any requirements regarding attendance at educational and training programs.
- (5) Complete records must be maintained. Records must be current, accurate and available to the Office. Records must include the following information regarding each paid employee:
 - (i) name, age, social security number, current home address, telephone number, and person to contact in an emergency;
 - (ii) names and addresses of educational institutions attended, dates of graduation, degrees or certificates conferred and information regarding any training received which will be used as a substitute for education and/or work experience with respect to the hiring of such employee;
 - (iii) all professional experience and previous employment, with name and location of employer, dates of employment and reasons for terminating employment;
 - (iv) information relating to the SCR and SEL checks required by this section;
 - (v) payroll and time records; and
 - (vi) where relevant, New York or other state licensure or registration number, year of original issuance and expiration date.
- (6) Complete records must be maintained for volunteers. Such records must be

current, accurate and available to the department. Records must include the following:

- (i) the volunteer's name, age, social security number, address, telephone number and person to contact in an emergency;
 - (ii) the volunteer's applicable skills, experience and job qualifications;
 - (iii) the volunteer's work responsibilities and scheduled work hours;
 - (iv) the name of the volunteer's supervisor and records of supervisory conferences;
 - (v) information relating to the SCR and SEL checks required by this section; and
 - (vi) any relevant New York or other state licensure or registration number, year of original issuance and expiration date.
- (7) Recordkeeping regarding Criminal History checks.
- (i) Programs must retain a list of names of all persons for whom a request for a criminal history information check was submitted to DCJS, identifying whether the person was applying for an employment, consultant, assistant or volunteer position;
 - (ii) For each such name identified, except for withdrawing persons, a copy of his or her signed informed consent form required pursuant to subdivision 452.11(a) of this Part, and any fingerprints and criminal history information, where authorized by DCJS, and determination of the program regarding the person applying for an employment, consultant, assistant or volunteer position; and
 - (iii) A record identifying whether such individual was hired, contracted with or permitted to engage in volunteer services, the position such individual holds, and any limitations placed on such employment or service.
 - (iv) Such records shall be maintained, where authorized, in a manner that ensures the security of the information contained therein. Nothing herein shall restrict the ability of the Office to monitor compliance with this Part.
 - (v) Each program must maintain information necessary to demonstrate compliance with this Part for at least six years after the person ceases to be an employee, volunteer or consultant in a position that involves regular and substantial contact with children, unless otherwise directed by the Office.
- (8) If directed by the Office or DCJS, a program shall destroy the criminal history information and/or any other information related to criminal background checks in accordance with such direction.
- (9) Destruction of criminal history information and program determinations shall be performed in a manner that ensures the confidentiality of the information.

- (10) If a subject withdraws from the application process, without prejudice, at any time regardless of whether he or she or the program has reviewed his or her criminal history information, upon such withdrawal from the application process, any fingerprints and criminal history information received by the program shall be returned to the withdrawing applicant.
- (11) Each program shall have policies and procedures designed to implement the provisions of this Part.
- (12) Compensated employees and volunteers must possess suitable qualifications to carry out their respective functions in the administration, operation and maintenance of the residential program for victims of domestic violence.
- (i) No individual may report to the program to work or volunteer impaired due to the use of alcohol, narcotics or other illegal drugs.
 - (ii) No individual may report to the program to work or volunteer while in possession of alcohol and/or illegal drugs.
 - (iii) When a compensated employee or a volunteer contracts a communicable disease, as defined in section 452.9(a)(2)(iii) of this Title, which can easily be transmitted to others under normal communal living conditions, the program must take timely and adequate measures to prevent exposure of other compensated employees, volunteers and residents to such disease.
- (13) Staffing
- (i) Each residential program for victims of domestic violence must employ a qualified director who meets the qualifications set forth in 452.11(g) to perform supervisory functions of the program.
 - (ii) The director must designate and identify a sufficient number of qualified compensated employees and/or volunteers who will be responsible for directly providing the emergency core services set forth in section 452.12 of this Part, as well as compensated employees and/or volunteers for meal preparation when meals are provided onsite. The director may be designated to perform these functions in lieu of a qualified compensated employee or volunteer.

(g) Qualifications.

| | Experience | | Education/Training |
|---|---|--|--------------------|
| Person responsible for program supervisory functions (Director) | Four years of relevant work experience, one year of which must include supervisory experience. Relevant work experience includes paid or volunteer work experience with victims of domestic violence and/or the direct provision of human services. | | |
| | OR | | |

| | | | |
|---|--|-----|---|
| | Two years of relevant work experience, one year of which must include supervisory experience. Relevant work experience includes paid or volunteer work experience with victims of domestic violence and/or the direct provision of human services. | AND | Two years of college in a related course of study |
| Persons designated to provide one or more of the emergency services (including hotline employees or volunteers) | One year of relevant work experience which includes paid or volunteer work experience with victims of domestic violence and/or the direct provision of human services. | OR | Six hours of training provided by the agency prior to assuming the responsibilities of the position in topics specified by (h)(2) of this subsection may be substituted for one year of experience. |
| Persons designated to provide Children's Services | One year of relevant work experience which includes paid or volunteer work experience with children | OR | Educational background or training in child development |
| Persons providing transportation | | | Must have a valid driver's license |

(h) Training

- (1) Prior to assuming any responsibilities as an employee or volunteer at a residential program for victims of domestic violence, all staff must be provided with a written copy of their job description and must receive an orientation to the services provided by the program, which must include confidentiality issues, child abuse reporting requirements, policies and procedures, and job responsibilities.
- (2) A written training plan must be developed for compensated employees or volunteers involved in the direct provision of emergency services.
 - (i) This plan must include a description of the content of the orientation as described in this subdivision and address how compensated employees or volunteers will receive on-going training.
 - (ii) Effective April 20, 2020, the plan must include training in adverse childhood experiences, also known as ACEs.
 - (iii) The plan may include and need not be limited to training in the following topics:
 - (a) Dynamics of domestic violence, including an understanding of the ongoing patterned use of intimidation, coercion, and violence to establish and maintain dominance over an intimate partner; and an understanding of coercive control tactics which can include physical, psychological, sexual economic and/or emotional abuse;

- (b) Child abuse reporting requirements, including identification and prevention of child abuse and maltreatment, how to make a report to the state central register, reporting protocols, and what information can be provided during investigations;
- (c) Statutes and regulations pertaining to residential programs for victims of domestic violence;
- (d) Confidentiality issues, which includes the protection of personally identifying information of victims of domestic violence; protection of the residential facility's physical address; protection of the identity of victims of domestic violence;
- (e) Legal remedies, including providing an understanding of the legal rights and options available to victims of domestic violence. Legal remedies do not mean providing legal advice and/or representation by someone other than an attorney;
- (f) Community resources and services, including community and/or government resources that can help victims of domestic violence meet their basic needs. Basic needs include and are not limited to: food, health, and housing. Services may include and are not limited to: transportation, employment, housing, health care, mental health care, alcohol/substance abuse, education needs and social services;
- (g) Organizational policy which includes: reviewing the organization's policies/personnel manual, time and attendance, job descriptions, safety and security, confidentiality, data systems, grievance protocols, etc.;
- (h) Substance use, including and not limited to, understanding the needs of individuals struggling with substance use; how and when to seek emergency medical services for overdoses; and information regarding options available to residents who request information and/or referral for substance abuse treatment;
- (i) Mental health, including and not limited to, an understanding of the impact of trauma to the health of domestic violence victims and their children; understanding the needs of individuals with developmental disabilities and/or mental health conditions; and how to assist residents who request professional mental health services with access to those services;
- (j) Diversity and inclusion which includes: understanding how culture, ethnicity, religion, sexuality and/or gender identity/expression can influence/impact domestic violence victims; how to provide services to victims in a respectful manner as to increase the quality of services and provide better outcomes.

- (3) All compensated employees or volunteers providing direct provision of emergency services must have an individualized development plan that identifies trainings completed and future training topics the individual may need to increase their knowledge and/or skills needed to carry out their duties. The agency may exempt any person from participating in a particular topic upon demonstration of substantially equivalent knowledge or experience to that topic.
- (4) The program must maintain verification of completion of training requirements and provide such verification to the Office upon request.

452.12 Emergency Core Services

Emergency services. In addition to the provision of temporary shelter at the facility, which must be available on a 24-hour basis, seven days a week, including weekends and holidays, the following emergency services must be offered and provided directly by the residential program or, in the case of medical services, through a linkage agreement. Acceptance of any service on behalf of the resident is voluntary.

- (a) Hotline services: The provision of immediate live assistance to victims of domestic violence through a telephone hotline which provides crisis intervention counseling and information and referral, and referrals to other available residential programs when the facility is filled to capacity.
 - (1) Such telephone hotline assistance must be made available on a 24-hour basis, seven days a week, including weekends and holidays.
 - (2) Admissions into domestic violence shelters and mixed occupancy shelters must be available on a 24-hours basis, seven days a week, including weekends and holidays.
 - (3) Admissions to safe homes and safe dwellings will be determined by the safe home network and domestic violence sponsoring agency's policies and may be limited to regular business hours.
 - (4) Compensated employees or volunteers responsible for the provision of such services must be knowledgeable about the dynamics of domestic violence intervention, facility services and the availability of community resources.
- (b) Information and referral which means:
 - (1) providing information about and referral to community services and programs which are available to meet the individual needs of residents. Referrals to such services must be made available to residents on a daily basis during regular business hours; and
 - (2) maintaining and making accessible to all residents a list of community services and programs which may be reasonably requested by victims of domestic violence, their minor children and other dependent family members.
- (c) Advocacy, which means the provision by a program of liaison services or active intervention with community resources and services on behalf of a resident.

- (1) Advocacy services must be made available to residents on a daily basis during regular business hours.
 - (2) Services must include and are not limited to, assistance in accessing legal services, remedies and protections; obtaining medical care, social services, employment and housing; and obtaining and submitting public assistance applications where appropriate.
 - (3) Compensated employees or trained volunteers responsible for advocacy services must be knowledgeable about community services and agencies, and the rights of victims of domestic violence to obtain necessary services and assistance.
- (d) Counseling refers to crisis intervention, emotional support, guidance and counseling services provided by advocates, case managers, counselors or mental health professionals. Counseling may occur in person or by telephone. Counseling must address the needs identified by the resident. Such needs include and are not limited to:
- (1) options available to enhance a resident's safety and the safety of their minor children as applicable;
 - (2) information to enhance a resident's understanding of domestic violence; and
 - (3) informing residents of the legal, financial, and housing options; available to them.
 - (4) Compensated employees and volunteers responsible for providing counseling must have the appropriate skills and training.
- (e) Children's services include the following, which may be delivered in collaboration with the parent receiving services:
- (1) making appropriate arrangements to, provide for the education of school- aged children in compliance with article 65 of the New York State Education Law, part 1, section 3201 et seq.;
 - (2) assisting parents, as needed, in arranging care for their children when such care is necessary to enable the parent to seek employment, housing and/or services or activities necessary to alleviate the parent's need for temporary shelter and emergency services;
 - (3) offering age appropriate recreational and social activities on a daily basis during regular business hours for children residing in the facility; and
 - (4) offering and providing appropriate counseling services to children residing in the facility.
- (f) Support groups which means a group of people who have similar experiences and concerns related to domestic violence, and who meet to provide emotional help, advice and encouragement for one another.
- (1) Support groups must be made available to residents at least once each week.
 - (2) Such groups must be coordinated by a qualified employee or trained volunteer.

- (3) Support groups must not replace individual counseling when requested by the resident.
- (g) Transition planning which means the program:
- (1) prior to a resident's planned departure from the facility, efforts are made to involve the resident in discussions on available community services and programs which may assist the resident in carrying out their intended future plans upon departure. Such transitional plan may include, and are not limited to, counseling services, employment or training services, educational services, legal services, medical services, day care and housing services. Any referrals to other residential programs for victims of domestic violence must be documented in the resident's case record; and
 - (2) recognizing every resident's need for safety and confidentiality and contacting residents after departure only when the residents have given prior written approval. Such approval must be documented in the resident's case record. Nothing in this subparagraph mandates the participation of the resident in transitional planning.
- (h) Medical services which means:
- (1) The program having an established linkage, documented by a letter of agreement, with a fully accredited medical institution or clinic or with qualified medical personnel, which include a physician, physician's assistant or nurse practitioner, for the referral of residents for health examinations where necessary, and follow-up visits.
 - (2) When a referral for additional screening for physical examination, laboratory and tuberculin tests, inoculations and other appropriate treatment has been made, the program must assist the resident in arranging for such treatment when requested by the resident.
- (i) Transportation which means the program:
- (1) to the extent possible, arranging for transportation to the facility in an emergency; and
 - (2) to the extent possible, making transportation available to residents in order for the residents to secure legal, medical, housing, employment, or public assistance services or assist residents to obtain available public or private transportation where possible.
- (j) Community education/outreach which means the provision of educational activities to the community regarding the need for and benefits of domestic violence services, the dynamics of domestic violence, and prevention of domestic violence by making presentations, distributing written materials, and utilizing the media.
- (1) When there is more than one agency in the community providing residential and/or non-residential services to victims of domestic violence, a residential program must make an effort to coordinate its community education/outreach activities with these other agencies to avoid potential duplication of activities.
 - (2) The availability of program services must be made known to police agencies,

courts, hospital personnel, and local social services districts.

- (3) A segment of such community education/ outreach must be focused on informing victims of domestic violence about existing services.
 - (4) To ensure the safety of persons receiving services for victims of domestic violence and the confidentiality of their identities, the community education/outreach activities must not identify the location where residential services for victims of domestic violence are provided.
- (k) Language access services which means providing interpretation and translation services of information for limited and/or non-English speaking victims of domestic violence.