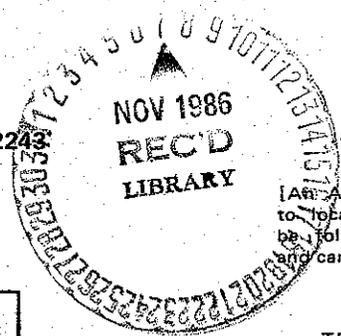


NEW YORK STATE  
 DEPARTMENT OF SOCIAL SERVICES  
 40 NORTH PEARL STREET, ALBANY, NEW YORK 12243



CESAR A. PERALES  
 Commissioner



[An Administrative Directive is a written communication to local Social Services Districts providing directions to be followed in the administration of public assistance and care programs.]

**ADMINISTRATIVE DIRECTIVE**

TRANSMITTAL NO.: 86 ADM-33  
 [Family and Children Services]

TO: Social Services Commissioners  
 Directors of Voluntary Child Care Agencies

SUBJECT: Requirements for Approval of Relative Foster Boarding Homes and Policy on Use of Relatives as Foster Care Providers or as Alternatives to Placement. DATE: September 26, 1986

SUGGESTED DISTRIBUTION: Directors of Social Service  
 Child and Family Services Staff

CONTACT PERSON: Any policy related questions concerning this release should be directed to Fred Cantlo, Regional Director, Metropolitan Regional Office, telephone 212-488-3485; John O'Connor, Regional Director, Eastern Regional Office, telephone 518-473-1095; Karen Schimke, Regional Director, Buffalo Regional Office, telephone 716-847-3145; Frank Petrus, Regional Director, Western Regional Office, telephone 716-238-8200. Any systems related questions should be directed to Joseph Capo, Bureau of Services Information Systems by calling toll-free 1-800-342-3727, extension 4-9613.

I. Purpose

The purpose of this directive is to inform social services officials and voluntary child care agencies of the provisions of the recently filed regulations which establish a comprehensive process for approving relatives as foster parents. In addition, this directive provides guidelines to district and agency staff for determining whether to use relatives as foster care providers and the considerations that should be used to determine the appropriate use of relatives or friends as alternatives to foster care placements.

**FILING REFERENCES**

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
86 ADM-12		390.2(f)(1)(ii)	358-a 424-a.1		
84 ADM-7		370.2(a) 443	371.12 (a)		
84 ADM-4		372.2 444	371.19 424-a.4		
82 ADM-42		421 605.2(c)	375 Articles		
82 ADM-66		422 (4)(viii)	376,377 3,7,		
81 ADM-10		427	384 10 of		
75 ADM-85		430.10(b)(2)	384-a FCA		
		431	392-la		
		441	398-a		

DSS-26 EV. 8/82)

## II. Background

Relatives who provide foster care have historically been granted special consideration in the foster care system due to the special continuity of significant relationships they provide for a child. Section 375 of the Social Services Law, allows relatives to "receive, board or keep any child under the age of sixteen" without being certified or licensed to do so. (In order for relatives to receive reimbursement from a social services official for caring for children, such official must have placed the children in the relative's home and the home must be certified or approved as a foster home.) However, there did not exist in practice any uniform standards governing relatives who provide foster care to children. This has resulted in inconsistencies among local districts and agencies in the use, monitoring, and supervision of relatives who provide foster care.

Federal foster care reviews conducted by the Department of Health and Human Services shed further light on the inconsistencies in the reimbursement practices of districts which pay relatives as foster care providers. The reviews found that in some cases, children were in relative homes, the homes were certified, and the relatives were receiving foster care payments. In other cases, children were in relative homes and the relatives were receiving foster care payments, yet the homes were neither certified, licensed, nor approved; there was no documentation in the case record that the home had been reviewed nor a written report filed with the agency describing the conditions and suitability of the home, as required in 18 NYCRR 444.2(c).

Furthermore, federal reviews of the State's foster care system discovered that in some instances voluntary transfer agreements required by Section 384-a of the Social Services Law were inappropriately signed by the relative in whose home the child resided, rather than the parent(s) or guardian(s) of the child.

In addition to the inconsistencies that exist in the practice of utilizing relatives as foster care providers, inconsistencies exist in the practice of utilizing relatives as resources for alternatives to foster care placement. 18 NYCRR 430.10(b)(2) (Utilization Review Standards) requires that districts attempt, prior to the placement of a child in foster care, to locate adequate alternative living arrangements with a relative or family friend, which would enable the child to avoid foster care placement, unless the child is placed as a result of a court order or a surrender agreement. This regulation has been subject to much misinterpretation. In some cases, children who were in a protective situation were placed in a relative's home as an alternative to a foster care placement.

No child may be placed in an alternative living situation if there is a court order giving the Commissioner of Social Services care and custody of the child or custody and guardianship of the child. Where such court order exists, this situation is always considered foster care and as such the placement of the child must always be in a licensed, certified or approved foster home.

It should also be noted that pursuant to 18 NYCRR 369.2(f)(1)(ii) a child is not eligible for ADC payments while residing with a relative if "...placement is on a board basis with a plan for supervision and control by the department of social services through its children's services program." In addition 18 NYCRR 370.2(a) provides that home relief does not include foster care of children. Therefore, home relief payments cannot be provided on behalf of foster children. However, Emergency Assistance to Families (EAF) may be provided to a relative foster parent, if such parent is otherwise eligible for such payment to cover the period prior to the receipt of the first foster care payment. The eligibility requirements for EAF are contained in 18 NYCRR 372.2.

The recently filed regulations concerning the approval of relative foster homes were developed in order to address the noted concerns and inconsistencies. A comprehensive approval process was developed to provide uniform standards for relatives providing foster care. The intent of these requirements is to assure that all children in care are provided the same protections, while maintaining the special considerations granted relatives according to law. In addition, guidelines were developed with respect to the appropriate use of relatives or friends as a resource for an alternative to foster care placement.

In the process of developing the approval process, other foster care regulations were reviewed for clarity and consistency. This resulted in amendments in the following areas: various foster care definitions were clarified and made consistent throughout the regulations; some new procedures which were not previously addressed were added with regard to reopening of foster homes, foster homes pending certification, licensure or approval and changes in foster care status for certified, licensed, as well as approved foster homes. Some changes in the requirements for medical exams were made in order to accommodate routine medical exams in a more cost and time effective way.

### III. Program Implications

The major implications of the recently filed regulations are in five areas:

1. The process for approving relatives as foster care providers;
2. The clarification of various foster care definitions;
3. The inclusion of relatives who are approved as foster homes as eligible for foster care payments;
4. The changes in requirements regarding medical exams and medical reports; and
5. The procedures that districts and agency staff must follow when reopening a foster home; when a foster home is pending certification, licensure or approval for more than six months; and when certain changes occur in certified, licensed or approved foster homes.

#### 1. Relative Foster Home Approval Process

The process for approving relatives as foster care providers closely parallels the foster home certification process and includes the following major provisions:

- a) The relative must be a relative within the 2nd degree to the parents

of a child. (18 NYCRR 443.1(d)) Relatives within the 2nd degree include grandparents of the child, great-grandparents of the child, aunts and uncles of the child, including spouses, and siblings of the child. (18 NYCRR 443.1(e))

b) Certain agency requirements for operating certified and licensed foster family boarding homes, as specified in 18 NYCRR 443.3, and 443.4, now apply to approved relative homes. These requirements include:

- ° application and orientation process for applicants; (18 NYCRR 443.3(a)(3) and (b))
- ° medical report requirements (18 NYCRR 443.3(a)(12) and (13)), however, a relative home may be approved conditionally prior to receipt of an acceptable medical report; such report must be submitted within 90 days of the date of application for approval; (18 NYCRR 444.8(a)(2))
- ° home study process, although it is expected that a home study for a relative home would take much less time to complete than the four months allotted for certifying or licensing foster homes since the home may be approved prior to receipt of the medical reports and since the physical standards for relative homes are less prescriptive; (18 NYCRR 443.3(a))
- ° character evaluation, including the receipt of two references rather than four, as required for certifying or licensing foster homes. The references for relatives may be either in the form of signed statements attesting to the relative's moral character and ability to develop a meaningful relationship with children or in the form of an in-person interview attesting to the same; (18 NYCRR 443.3(f)(1))
- ° procedures for providing relatives with the same information and services which are required to be provided to certified foster parents including: a foster parent agreement, the legal rights of foster parents, training, foster parent manual, boarding home register, full information about each child being placed, etc.; and
- ° supervision. (18 NYCRR 443.4)

c) Agency procedures for the approval of relative foster homes as required in 18 NYCRR 444.8 including:

- ° Review of the prospective relative foster family boarding home for health and safety conditions. The standards for this review are much less rigorous than for the certification process, although the certification

standards may be used as a guideline for review. Failure to meet a certification requirement should not in and of itself disqualify a home from approval unless one of the standards below are not met. The standards include:

- the home must be in good condition and present no hazard to health or safety of children; (18 NYCRR 444.8(b)(1))
  - the home must be in substantial compliance with all applicable provisions of State and local laws, ordinances, rules and regulations concerning health and safety; (18 NYCRR 444.8(b)(2))
  - the home must be kept in sufficiently clean and sanitary condition and the agency must be satisfied that: there are sufficient sleeping arrangements and space, there is an adequate water supply, the home is free of fire hazards; the home is equipped with at least one smoke detector; and there are adequate bathing, toilet, and lavatory facilities. (18 NYCRR 444.8(b)(3))
- o Approved relative foster parents must sign the same foster parent agreement as is required to be signed by certified or licensed foster parents. (18 NYCRR 444.8(c))
  - o A letter of approval as required by 18 NYCRR 444.1(c), must be issued to the relative by the local commissioner of social services or by an authorized agency, verifying that the home has been approved.
- d) Special provision for approving relative foster homes on an emergency basis only:
- o When a child is taken into foster care on an emergency basis, i.e. a protective removal or Family Court remand under Article 10 of the Family Court Act it may be necessary to perform an expedited approval of the relative foster home to ensure continuity of the child's placement with a suitable relative. However in cases of emergency removals, an agency should also consider placing the child in a suitable certified foster boarding home while conducting the full approval process for the child's relative if the agency determines it can better serve the child by first taking the time to fully explore the relatives' capabilities to care for the child before placing the child in such a home.
  - o If the expedited approval process is chosen those activities that must be performed before placing the child with a relative are as follows:
    - an assessment of the home to ensure that there is no apparent risk to the health and safety of the child;

- an assessment of the relative foster family, particularly: the family's relationship with the child and the child's parents; the care provided to other children in the home; the family's knowledge of the circumstances and conditions that have led to the need for the child's placement; the family's role in the past in helping and/or protecting the child and/or preventing occurrences of abuse or maltreatment of the child including the family's present ability to protect the child placed in their home and the family's ability to understand the need for protection;
- an explanation given to the relative(s) of the agency's role and authority to supervise the placement;
- securing a written agreement from the relative foster parents that they will provide foster care for the child;
- obtaining sufficient information necessary to contact character references;
- obtaining a completed SCR Clearance Form (DSS-3370) and submitting this form to the State Department of Social Services pursuant to Section 424-a of the Social Services Law; and
- reviewing agency records to determine whether or not the relative(s) have a prior history of abuse or maltreatment.

The Department assumes the above activities can be completed in less than a twenty-four hour period thus quickly allowing emergency placement of the child with a relative. When utilizing these emergency approval procedures, the home, if found suitable, is considered fully approved for a 60 day period of time. All relative homes which will continue to provide foster care beyond this 60 day time period must be reapproved on or before the 60th day. The following stipulations apply:

- all requirements for approval pursuant to 18 NYCRR 443.3 and 444.8 must be met within 60 days of the date of placement;

Note: Nothing in the procedure established for approving relative foster homes on an emergency basis requires the agency responsible for approving the home to obtain the required medical report prior to the ninetieth day after the child is placed in the relative's home.

- the agency must revoke a relative foster parent's approval pursuant to 18 NYCRR 444.10 if the above requirements are not or cannot be met and the relative foster parents are given reasonable notice and time within this 60 day period to take corrective action with regard to particular identified problems that may constitute a barrier to approval;
- upon revocation of an approval the child must be removed from the home of the relative (18 NYCRR 444.10) and placed in a suitable certified foster home;

- the agency must immediately remove the child from the home of the relative pursuant to Section 400 of the Social Services Law and 18 NYCRR 431.10 when health and safety risks to the child warrant such removal and place the child in a suitable certified foster home; and
  - upon removal of the child from a relative foster home as a result of the revocation of approval or as a result of the presence of a health or safety risk to the child, the relative foster parents would be entitled to a hearing pursuant to the provisions of Section 400 of the Social Services Law.
  - in the event that the local social services district violates the requirement to maintain the child in a certified or approved foster home the State will impose a penalty such that the district will have to assume the full cost of the child's care.
- e) Agency procedures for annual review of approved relative homes as required in 18 NYCRR 444.9, including:
- o written evaluation of the home and family based on criteria used for original approval of the home and family; (18 NYCRR 444.9(a)(1))
  - o written evaluation of the care provided the children and the working relationship of the relatives with the agency; (18 NYCRR 444.9(a)(2))
  - o a written statement from a physician regarding the relative family's health (biennially after the physician's initial medical report); (18 NYCRR 444.9(a)(3), 18 NYCRR 444.8(a)(2))
  - o an oral review of the evaluation with the relative foster parent. (18 NYCRR 444.9(a)(4))
- f) Agency procedures for non-renewal or revocation of an approval for a relative foster home including:
- o advising relative foster parents before the expiration date on the letter of approval that the agency plans not to renew the approval of their home. A letter describing the reasons for such action shall be postmarked at least 20 days before the child is to be removed, discharged or transferred from the home; (18 NYCRR 444.10(a))
  - o advising the relative foster parent that their approval will be revoked. A letter describing the reasons for such action shall be postmarked at least 20 days before the child is to be removed, discharged or transferred from the home; (18 NYCRR 444.10(b))

- ° arranging for the relative to meet with an agency official to review the decision not to renew or to revoke the approval. (18 NYCRR 444.10(c))
- g) Agency procedures for determining medical assistance eligibility:
  - ° medical assistance for children placed in approved relative foster homes who are not eligible for and in receipt of federal foster care maintenance payments shall be determined in the manner set forth in 75 ADM-85 and 81 ADM-10. In accordance with 81 ADM-10, a child's medical assistance eligibility must be determined as a separate household of one, and must be based solely on the child's own income and resources and on the amount of support that the parents contribute. The child's medical assistance eligibility level shall be the foster care rate or the Medicaid level for one, whichever is higher.
  - ° children who are eligible for and in receipt of federal foster care maintenance payments are automatically eligible for medical assistance. See 84 ADM-4.

## 2. Foster Care Definitions

Previous regulations contained various definitions of the terms "foster care" and "foster child". Consequently, these definitions have been clarified and made consistent throughout the regulations. Some new definitions have been added to address the foster parent approval process. Agencies should note the following definitions:

- ° foster care, as defined in 18 NYCRR 422.1(c) and 431.8(a)(1), means all activities and functions provided to a child away from his home 24 hours a day in a foster family free home, or a licensed, certified, or approved foster family boarding home, or a licensed or certified group home, agency boarding home, child care institution, health care facility or any combination thereof. Foster children placed in RTF's, ICF's and hospitals for a brief period of time (up to 15 days) are considered placed in health care facilities for purpose of this definition. Foster care reimbursement may continue in this situation pursuant to 18 NYCRR 605.2(c)(4)(viii). In the event that a child's placement in the health facility exceeds the 15 day period, the child will not be considered to be in foster care for medical assistance eligibility purposes. 18 NYCRR 427.2(a) also defines foster care of children in this same manner but does not include a reference to licensed foster homes.
- ° child or foster child, as defined in 18 NYCRR 422.1(b), 427.2(c), 431.8(a)(2) and 441.2(a), means a person under the age of 18 or under the age of 21 if a student attending a college, school, or university or regularly attending a course of vocational or technical training designed to enable him/her to obtain gainful employment, and who entered foster care prior to his/her

18th birthday, who is cared for 24 hours a day in a foster family free home or a licensed, certified or approved foster family boarding home or a licensed or certified group home, agency boarding home, child care institution, health care facility or any combination thereof whose care and custody or guardianship and custody have been transferred to an authorized agency pursuant to the provisions of Sections 384 or 384-a of the Social Services Law or been placed with a social services official pursuant to Articles 3, 7, or 10 of the Family Court Act.

Note: The amendments to 18 NYCRR 431.8(a)(1) and (2) made the definition of "foster care" and "foster child" for purposes of Family Court reviews inconsistent with the provisions of Section 392 of the Social Services Law. Therefore, 18 NYCRR 431.8(a)(1) and (2) will be amended to reflect the definitions of "foster care" and "foster child" as they appear in Section 392 of the Social Services Law.

- ° foster parent, as defined in 18 NYCRR 421.1(g), means any person licensed, certified or approved according to 18 NYCRR Parts 443 and 444 and Section 375 of the Social Services Law with whom a child in the care, custody, or guardianship of an authorized agency, is placed for temporary or long-term care.
- ° foster family home care, as defined in 18 NYCRR 443.1(c), means temporary or long-term care of a child whose care and custody or guardianship and custody have been transferred to an authorized agency pursuant to the provisions of Sections 384 or 384-a of the Social Services Law or who has been placed with a social services official pursuant to Articles 3, 7 or 10 of the Family Court Act and who is cared for away from his home 24 hours a day in a family home with a foster parent duly certified or approved by an authorized agency or licensed, certified or approved by a social services commissioner.
- ° approved home, as defined in 18 NYCRR 443.1(d), is a home in which temporary or long-term care is provided to a child whose care and custody or guardianship and custody have been transferred to an authorized agency pursuant to the provisions of Sections 384 or 384-a of the Social Services Law or who has been placed with a social services official pursuant to Articles 3, 7 and 10 of the Family Court Act and who is cared for 24 hours a day in a family home with a foster parent who is a relative within the second degree of the parent(s) of a child and who is duly approved by an authorized agency as required in 18 NYCRR 444.8.
- ° foster family free home care as defined in 18 NYCRR 441.2(j) is care provided to a child at no cost to an authorized agency by a family other than the child's parent, step-parent, grandparents, brother, sister, uncle, aunt or legal guardian for the purpose of adoption or for the purpose of providing foster care. Free homes are most likely used, if at all, for pre-adoptive placements.

- ° relative within the second degree, as defined in 18 NYCRR 443.1(e), means those relatives who are related to the parent(s) through blood or marriage either in the first or second degree in the kinship line. Relatives within the 2nd degree include the following: grand-parents or great-grandparents of the child; aunts and uncles of the child including spouses of aunts and uncles; and siblings of the child.

3. Eligibility for Payment

18 NYCRR Part 427 has been amended to enable approved foster homes to receive foster care payments at the same rate as certified foster homes.

4. Medical Examinations

The regulations make some changes in the requirements regarding medical examinations.

- ° Medical exams for certified, licensed and approved foster parents are now required on a biennial basis (that is, every two years), rather than on an annual basis. (18 NYCRR 444.5(a)(2) and 444.8(a)(2)) This should be more cost and time effective for districts and agencies while still maintaining reasonable surveillance of the foster family's overall health and providing effective health protection for foster children.
- ° The medical report form must cover a physical exam of the applicant conducted not more than one year preceding the date of the foster parent application for either licensure, certification or approval. (18 NYCRR 443.3(a)(12))
- ° If a foster parent becomes an adoptive applicant, 18 NYCRR 421.16(c)(2) allows the previously completed medical reports on the foster parent(s) and family to satisfy the requirement for the adoptive medical reports as long as the medical examination was completed within one year prior to the date of the adoption application. 18 NYCRR 443.3(a)(12) permits the medical reports completed on behalf of persons who apply to become adoptive parents to be used if such persons apply to become foster parents if the medical examination has been completed within one year prior to the date that the application to become a foster parent was submitted to the authorized agency.

5. Other Procedures

District and agency staff should note the following new procedures:

- ° In order to reopen a closed foster home which was previously licensed, certified or approved the authorized agency must:
  - complete a new application, including a clearance through the State Central Register (SCR) for applicants to be licensed, certified or approved foster parents; (It should be noted that

SCR clearances for approved foster parents are mandated effective January 1, 1986 by Section 424-a.1(a) of the Social Services Law. It should be further noted that effective January 1, 1986 SCR clearances pursuant to Section 424-a.1(a) are required for persons over the age of 18 who reside in the home of a person who has applied to become a foster parent);

- prepare an update of the home study that includes a written evaluation of the home as required in 18 NYCRR Parts 443 and 444, and a written explanation as to why the home closed and why it is reopening;
- obtain report(s) of medical exam(s) as required in 18 NYCRR Part 443 unless a medical exam was completed in the one year period prior to the date that the application for reopening was received by the agency;
- conduct an oral review of the evaluation with the foster parent before a new license, certificate or letter of approval is issued.

The only exception to these requirements is when a home closes and then reopens for administrative reasons, i.e. when the home should not have been closed initially but because it was, a reopening is necessary.

° Certain changes in the family composition of certified, licensed or approved foster homes (i.e., when a new adult spouse of a foster parent comes in to the home and has applied for certification, licensure or approval as a foster parent) require:

- completion of a new application for the new household member, including a clearance through the State Central Register for applicants in licensed or certified homes (and approved homes after January 1, 1986);
- an up-date of the home study, including the receipt of the names of two character references and an exploration of the applicant's character as required by 18 NYCRR 443.3(f);
- completion of a medical exam for the applicant as required by 18 NYCRR 443.3(a)(12) unless a medical exam has been completed within the past year prior to the date of application. Results of the medical exam must be sent to the agency.

° Applications for licensure, certification, or approval which have been pending for 6 months or more, will be considered expired. This will require that new applications be completed for those prospective foster parents who still seek licensure, certification or approval. Part of the application process will require the screening of the applicant(s) with the State Central Register.

IV. Required Actions

Districts and agencies are responsible for fully implementing the following:

- ° the new procedures for reopenings of closed foster homes, the treatment of foster homes whose pending status has expired and other regulatory changes in foster care for approved, licensed, and certified homes as described in Section III of this Directive;
- ° the requirements for approving relative homes as described in 18 NYCRR Parts 443 and 444. Special attention should be paid to these areas:

A) Systems Instructions

1. The State Central Register Clearance Form (DSS-3370) has been revised (1/1/86) to accommodate the clearance of Approved Relative Foster Parents. This form should be completed using Clearance Category of R - Relative Foster Parent.
2. Completed State Central Register Clearance Forms should be sent to:  
  
Bureau of Services Information Systems  
40 North Pearl Street - Mezzanine  
Albany, New York 12243
3. A turnaround form (DSS-2843A) will be sent to your agency which contains demographic information collected from the clearance form. The Approved Relative Home is considered in a Pending Status at this stage.
4. If the Approved Relative Home is to become active, fill in the remaining fields and indicate an action code of A - New Home Added.

NOTE: When reporting to CCRS the actual placement of the child, use the assigned 8 digit facility number of the approved home as it appears on the turnaround document.

If the Approved Relative Home is not to be made active (opened) write - CANCEL - on the turnaround.

Send all turnarounds to:

Bureau of Services Information Systems  
40 North Pearl Street - Mezzanine  
Albany, New York 12243

NOTE: A home cannot be certified as both a Foster Family Boarding Home and an Approved Relative Foster Home. If a home has been certified as a foster family boarding home additional approval is not needed in order to use this home as a relative foster boarding home. However, an approved relative home may not be used for the placement of non-related children.

5. No Certificate to Board Children will be sent to approved foster parents. The agency/district is responsible for a letter of approval as discussed in Section IV(B) of this Directive.
6. Approved relative foster homes will appear on the Foster Family Register and the Activity Reports. These homes will also appear on the Facility File inquiry once the home is active. Approved relative foster homes will be identified by the facility type of 14.
7. The following are special system procedures to be used for approving relative foster homes on an emergency basis (EARH)
  - a. Districts/Agencies must use the SCR Clearance form (DSS-3370). Districts/Agencies must annotate the form in red ink with EARH at the bottom of the form.
  - b. Following the EARH annotation at the bottom of the form, write in the Unit/Worker number for the responsible worker. This is necessary so that reports will list the EARH's under the appropriate responsible worker.
  - c. The clearance category of R - Relative Foster Parent must be entered on the form.
  - d. In the top section of the form, the date of placement must be recorded in the section labeled date.

- e. The completed form should be sent to:

Bureau of Services Information Systems  
40 North Pearl Street - Mezzanine  
Albany, New York 12243

- f. The EARH will be entered into the Facility File as an active home for 60 days from date of placement. A turnaround document will be sent to the requesting district/agency.

NOTE: Some items displayed on the turnaround such as religion, ethnicity, language, etc. will be assigned a value by the Bureau of Services Information Systems since these are system required and not part of the request for clearance.

- g. If the EARH is to remain open beyond the 60 day emergency approval period, the district/agency must complete the requirements for approval and submit an updated turnaround form to the Bureau of Services Information Systems. The home will then be approved for one year from the date of placement.

NOTE: Items referenced in section 7f (NOTE) must be updated.

- h. The EARH will be closed on the 61st day from the date of placement unless the Bureau of Services Information Systems is notified to close the home sooner or the requirements for approval are completed and the updated turnaround form is received by the Bureau of Services Information Systems within the 60 day period.

- i. If the EARH is closed, a new SCR clearance will be necessary to reopen the home. The only exception to this is when a home is closed and then reopened for administrative reasons, i.e. when the home should not have been closed initially but because it was, a reopening is necessary.

- j. The Child Register Report will list any children still placed in relative foster homes which have been closed on the facility file.

B) Letter of Approval - When the authorized agency receives the systems turnaround document from the Department and the agency determines that the home should be activated, the agency must issue a letter of approval to the relative foster parents verifying that the home has been approved according to the criteria specified in the regulations. The letter must include the initial date of approval as indicated on the turnaround, as well as the date the home is scheduled for reapproval (one year from the date of approval). The date of approval which is printed on the turnaround is the date that the relative foster parents become eligible to receive foster care payments for the care of the child. The date of approval should always be the date of placement.

The letter of approval must also indicate, at a minimum, the name and address of the relative foster parents as well as the name, age, and sex of the child(ren) to be boarded. Subsequent to the annual review of the approved home, another letter must be issued from the agency indicating that the home has been reviewed according to the criteria for re-approval. All approvals and re-approvals are valid for one year only unless revoked.

C) Exceptions - The process for obtaining an exception to the requirements for approval or reapproval, as described in 18 NYCRR 444.8(e) and 18NYCRR 444.10(d), is identical to the process for obtaining exceptions to the requirements for a license or certificate, as described in 18 NYCRR 444.5(e) and 84 ADM-7. Exceptions may be proposed when it is determined that continuity of the family relationships and ongoing care in the relatives home is in the child's best interest and is not inconsistent with the health, safety and welfare of the child. However, exceptions to statutory requirements cannot be granted. In the case of relative homes, however, children may be placed in the home prior to receiving the Department's approval of the exception. The final approval of the home is conditional upon receiving approval for the exception. Exceptions may be granted to all of the requirements of 18 NYCRR 444.8 except:

444.8(b)(1) - Physical facilities of the relative foster home shall be in good condition and present no hazard to the health and safety of children.

444.8(b)(2) - Foster homes shall be in substantial compliance with all applicable provisions of state and local laws, ordinances, rules, and regulations concerning health and safety.

It should be noted that requests for exceptions concerning homes in which children are placed on an emergency basis in accordance with the provisions of Part III (1)(d) of this document may be submitted to the Department. The failure of the Department to rule on a request for an exception within the sixty day period required for completion of a home study in cases where a child is placed with a relative on an emergency basis, will not require the placing agency to remove the child from the home prior to the sixtieth day. However, on or following the sixtieth day of an emergency placement, if the Department denies an exception, the agency must revoke the approval and remove the child unless the reason for the exception request can be rectified.

D) Medical Exams - In order for a relative foster home to be conditionally approved, agencies have 90 days to complete the medical report on the relative foster family after the initial date of application for approval is submitted to the agency. The approval of the relative home shall be considered conditional upon the receipt of a completed and satisfactory medical report. Once the medical report is completed, agencies must send an updated turn-around document to the Department indicating the date of the medical examination. (18 NYCRR 444.8(a)(2))

E) Guidelines - In addition, all agencies and districts operating foster boarding homes must review their policies, procedures, and practices regarding the use of relatives as foster care providers and as alternatives to placement. Before using relatives as either foster care providers or as alternatives to placement, the following guidelines should be considered:

1. Considerations when utilizing the alternatives to placement option

18 NYCRR 430.10(b)(2) (Utilization Review) states the standard for necessary activities prior to placement: "For each foster care placement, the district shall: ... (2) attempt prior to placement of a child in foster care to locate adequate alternative living arrangements with a relative or family friend which would

enable the child to avoid foster care placement, unless the child is placed as a result of a court order or surrender agreement as defined in paragraphs (d)(3) and (c)(2) of this section..." First, it is important to note when alternatives to placement cannot be an option:

- ° when the child is or has been in serious danger and it is assessed that the remedies of the Family Court are necessary to ensure the protection of the child and/or the best interests of the child;
- ° when the care and custody or guardianship and custody have been transferred to an authorized agency pursuant to the provisions of Sections 384 or 384-a of the Social Services Law or when the child has been placed with a social services official pursuant to Articles 3, 7, or 10 of the Family Court Act. Once the child's custody or guardianship is transferred to a social services official, the child is considered in foster care and in need of placement in an approved, licensed or certified home.

The alternatives to placement option would be appropriate when the district can make the casework decision that at the time of contact with the family and child, the child is not in need of foster care. In an alternative to placement situation, the parent remains the legal guardian and the district merely facilitates the movement of the child from the natural parent's home to the alternative living arrangement without assuming custody.

Alternative living arrangements for a child can be a positive alternative to foster care placement if they offer the following:

- a) continuity of positive relationships that are emotionally and psychologically significant to the child;
- b) an environment that is healthy, secure, and nurturing;
- c) a living arrangement for the child that is acceptable to the natural parent as well as to the child, to the extent the wishes of the child can be determined; and
- d) appropriate care and supervision by a relative or family friend who:
  - expresses feelings of family loyalty for the child's parents
  - has realistic behavioral expectations of the child

- has the capacity to manage, discipline and guide the child appropriately
- has the resources to provide adequately for the child's physical, medical, and social needs, and have adequate financial resources or is willing to make an application on behalf of the child for an Aid to Dependent Children-Other Than Grantee (ADC-OTG) grant if needed by the relative or make an application on behalf of the child for a Home Relief grant if needed by the family friend
- has an awareness of the various difficulties and responsibilities in caring for the child (i.e. separation issues, visiting with natural parents, "acting-out" behavior, etc.).

An alternative living arrangement would most likely be appropriate where the following situations exist:

- o emergency situations - in emergency situations, alternatives may be used initially to allow the worker more time to assess whether or not the child does in fact need to be removed from the home of the parent and placed in foster care;
- o temporary/short-term situations - in certain temporary or short term situations (e.g. natural parent is hospitalized, incarcerated or out of town, etc.) an alternative living situation may be the best option for short-term care away from home for the child;
- o parent's willingness - the natural parents of the child are receptive or specifically request that the child live with a relative or friend for a number of different reasons and protection of the child from the parents does not seem to be at issue;
- o relative or friend's willingness to care for the child - the relative or friend has expressed a sincere desire to care for the child, and has or can obtain the necessary resources to do so;
- o there is a harmonious working relationship between the child's natural family and the relative or friend who is being utilized as an alternative;
- o there is no urgency or necessity to formally remove the child from the home; the child does not appear to be in serious or imminent danger nor in need of the remedies afforded to social services districts by Article 10 of the Family Court Act.

When utilizing the alternatives to placement option, the district or agency has the responsibility to:

- ° assess the home of the relative or friend to assure that the caretaker is capable of providing a safe, healthy and nurturing environment for the child;
- ° explore the possibility of the relative or friend receiving ADC-OTG or HR payments for the care of the child and inform the relative or friend about the existence of other assistance programs;
- ° encourage the parent/guardian to execute an instrument that is sufficient to give the relative or friend the authority to obtain necessary medical treatment for the child;
- ° offer the child's natural family and/or the child, preventive services whenever possible; and
- ° assess the appropriateness of using an alternative to foster care:
  - a) does the child need the increased district or agency support and structure that foster care provides?
  - b) does the child and/or caretaker need the greater monitoring presence of the district or agency?
- ° assess the relative's or friend's willingness to cooperate with the agency in planning for the child when preventive services are provided. (The agency's role will vary with different situations; in many cases the agency will not continue to have any active involvement with the case after the alternative arrangement with relatives or friend is effected.)

While the use of alternatives to foster care placements can be very positive in that such alternative placements can offer continuity of relationships which are emotionally and psychologically significant to the child, as well as avoid foster care placement, the following additional factors are to be considered before utilizing alternative placements:

- a) objections by the child to the prospect of living with the relative or friend for reasons which suggest the child would be unhappy or under stress;

- b) objections by the natural parent which may indicate underlying family conflict which would be reactivated or intensified if the child lived with the relative or friend;
- c) the relative's or friend's family history or current situation demonstrates family patterns of abuse, neglect, violence, dysfunction, illness or inability to cope effectively with stress and change and/or children in general.

2. Considerations when utilizing relatives as foster care providers

Once the decision has been made that the child is in need of foster care and care and custody or guardianship and custody of a child have been transferred to an authorized agency, including a social services official, pursuant to the provisions of Section 384 or 384-a of the Social Services Law or pursuant to Articles 3, 7, & 10 of the Family Court Act, the decision to utilize relatives as the foster care provider shall be viewed in terms of the following factors:

° Continuity in the child's environment

Utilization review regulations (18 NYCRR 430.10) place great emphasis on maintaining the child's relationship with his own family and environment, religion, and ethnicity. While a relative foster home has the definite advantage of providing this continuity in the child's environment, the placement of a child with a relative must be viewed in terms of the overall benefits and disadvantages to the child.

° Family dynamics of abuse and neglect

In light of evidence which indicates that patterns of abuse and neglect tend to repeat themselves in families, and that child abuse and neglect is a learned behavior, it becomes imperative to assess the appropriateness of placing a child with a relative who is a potential foster care provider. When determining whether to place a child with a relative in all child protective cases, special consideration is to be given to any known family history of abuse and neglect. The areas of assessment listed in Section III d. (p.6 top) must be considered.

° Other family characteristics

The relationship, particularly the level of harmony, between the natural family and the potential relative foster family must be considered. The relative foster family must be able to cooperate with and assist the agency in implementing permanency plans for the foster child including, when appropriate, preparing a child (a) to return home, (b) for adoption, or (c) for independent living.

° Reimbursement

All approved relative foster parents are eligible for foster care payments at the same rate as certified foster parents.

° Services

All approved relative foster parents must be provided with all necessary foster care services.

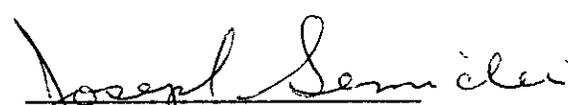
When children come into care, their most important need is a secure, healthy and nurturing environment. Choosing a setting which can most appropriately meet these needs is of paramount concern. Any decision to place a child should be made with a thorough assessment of the problems and needs of the child and the family and a search for the resources to meet those needs. It is above all the best interests of the child which should dictate where a child is placed.

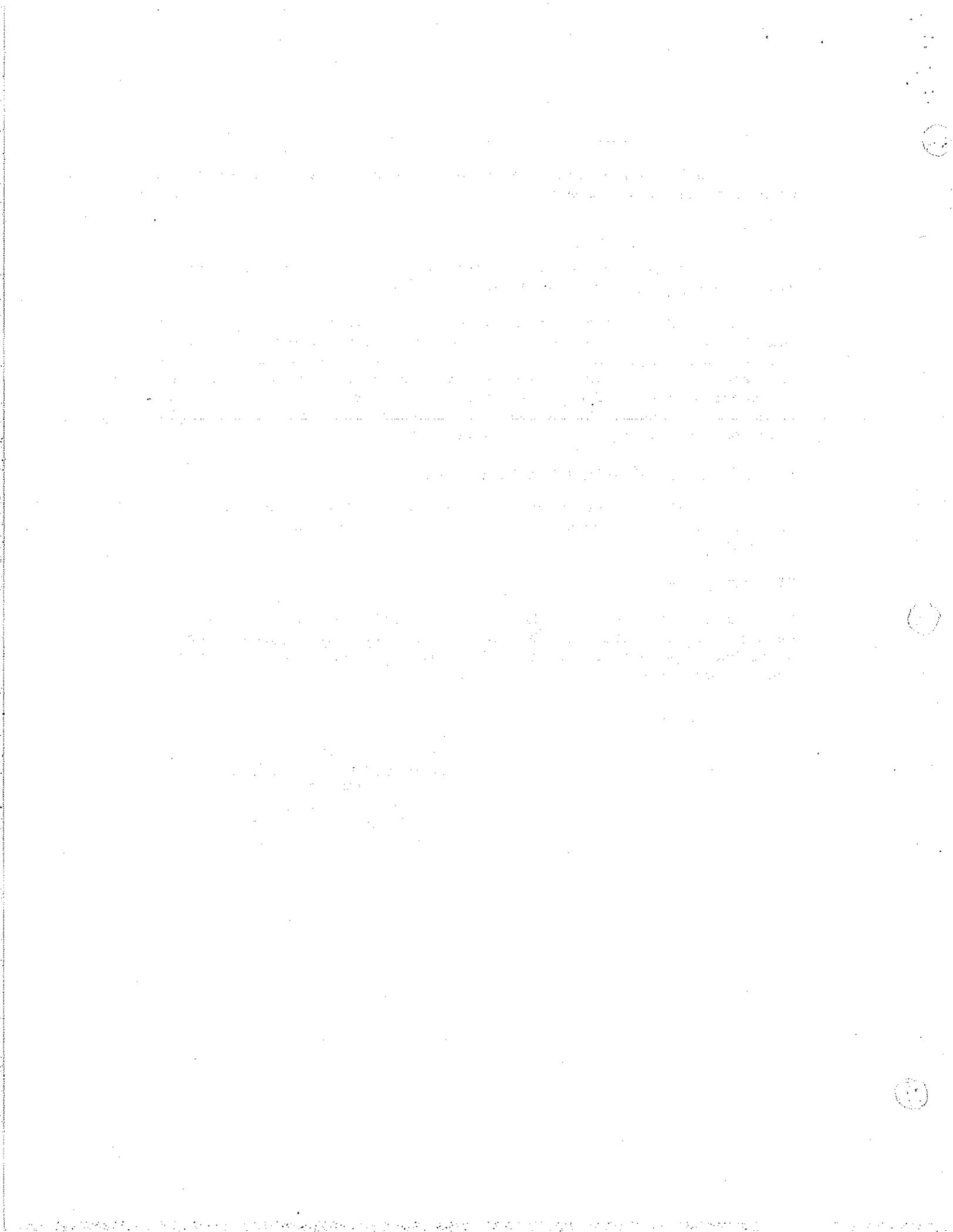
V. Additional Miscellaneous Information

86 ADM-12 - Policy on Fire Safety and Fire Prevention in Foster Homes applies to approved relative foster homes as well as to licensed and certified foster homes.

VI. Effective Date

The effective date of the actions required by this Directive is December 11, 1985 the date the regulations concerning approved foster homes became effective. A copy of the regulations are attached for your information.

  
Joseph Semidei  
Deputy Commissioner  
Division of Family and  
Children Services



STATE DEPARTMENT OF SOCIAL SERVICES

ALBANY, NEW YORK

Pursuant to the provisions of Sections 20(3)(d), 34(3)(f) and 398-a(2) of the Social Services Law, I, Cesar A. Perales, Commissioner of Social Services, do hereby amend sections 421.1(g), 421.16(c)(2), 421.19(d), 421.19(g)(4), 422.1(b), 422.1(c), 427.2(a), 427.2(c), 427.2(d), 427.6(b), 427.6(c), 427.6(d), 427.6(e), 431.8(a)(1), 431.8(a)(2), 431.11(c)(1), 443.1(b), 443.1(c), 443.3(a)(4), 443.3(a)(5), 443.3(a)(6), 443.3(a)(9), 443.3(a)(12), 443.3(b)(2), 443.3(c), 443.3(d)(5), 443.3(d)(6), 443.3(e)(1), 443.3(e)(2), 443.3(e)(3), 443.3(f), 443.3(f)(1), 443.3(f)(2)(ii), 443.3(f)(2)(iv), 443.3(g), 443.3(h), 443.3(n), 443.3(o)(7), 443.3(u)(1), 443.3(u)(3), 444.1(a), 444.2(b), 444.2(b), 444.4(a), 444.4(b), 444.5(a)(2), 444.6, 444.7(a) of Title 18 NYCRR; repeal section 444.7(b) of such Title and reletter sections 444.7(c) and (d) as sections 444.7(b) and (c) respectively; amend the title to Part 443 and the title to Part 444 of Title 18 NYCRR; reletter sections 427.2(e), 427.2(f), 427.2(g), 427.2(h), 427.2(i), 427.2(j), 427.2(k), 427.2(l), 427.2(m), 427.2(n), 427.2(o) and 427.2(p) of Title 18 NYCRR as sections 427.2(f), 427.2(g), 427.2(h), 427.2(i), 427.2(j), 427.2(k), 427.2(l), 427.2(m), 427.2(n), 427.2(o), 427.2(p), and 427.2(q) respectively; and add sections 427.2(e), 441.2(j), 441.2(k), 443.1(d), 443.1(e), 443.3(a)(14), 443.3(e)(4), 444.1(c), 444.3(f), 444.3(g), 444.8, 444.9 and 444.10 to Title 18 NYCRR of the Official Regulations of the State Department of Social Services, being Chapter II of Title 18 NYCRR, effective twenty-one days after filing with the Secretary of State.

Dated: November 19, 1985

Signed: Cesar A. Perales  
 Commissioner

This is to certify that this is the original of  
 an order of the State Department of Social

Services, made on 11/19/85 amending sections 421.1(g), 421.16(c)(2), 421.19(d), 421.19(g)(4), 422.1(b), 422.1(c), 427.2(a), 427.2(c), 427.2(d), 427.6(b), 427.6(c), 427.6(d), 427.6(e), 431.8(a)(1), 431.8(a)(2), 431.11(c)(1), 443.1(b), 443.1(c), 443.3(a)(4), 443.3(a)(5), 443.3(a)(6), 443.3(a)(9), 443.3(a)(12), 443.3(b)(2), 443.3(c), 443.3(d)(5), 443.3(d)(6), 443.3(e)(1), 443.3(e)(2), 443.3(e)(3), 443.3(f), 443.3(f)(1), 443.3(f)(2)(ii), 443.3(f)(2)(iv), 443.3(g), 443.3(h), 443.3(n), 443.3(o)(7), 443.3(u)(1), 443.3(u)(3), 444.1(a), 444.2(b), 444.2(c), 444.4(a), 444.4(b), 444.5(a)(2), 444.6, 444.7(a) of Title 18 NYCRR; repealing section 444.7(b) of such Title and relettering sections 444.7(c) and (d) as sections 444.7(b) and (c) respectively; amending the title to Part 443 and the title to Part 444 of Title 18 NYCRR; relettering sections 427.2(e), 427.2(f), 427.2(g), 427.2(h), 427.2(i), 427.2(j), 427.2(k), 427.2(l), 427.2(m), 427.2(n), 427.2(o) and 427.2(p) of Title 18 NYCRR as sections 427.2(f), 427.2(g), 427.2(h), 427.2(i), 427.2(j), 427.2(k), 427.2(l), 427.2(m), 427.2(n), 427.2(o), 427.2(p), and 427.2(q) respectively; and adding sections 427.2(e), 441.2(j), 441.2(k), 443.1(d), 443.1(e),

443.3(a)(14), 443.3(e)(4), 444.1(c), 444.3(f),  
444.3(g), 444.8, 444.9 and 444.10 to Title 18  
NYCRR of the Official Regulations of the  
State Department of Social Services, being  
Title 18 NYCRR, a summary of the terms of  
which was published in the New York State  
Register on July 24, 1985

Dated: November 19, 1985

Signed:



Commissioner

Handwritten text, likely bleed-through from the reverse side of the page. The text is mostly illegible due to fading and bleed-through.

Handwritten text, possibly a signature or a date, located in the middle-right section of the page.



Subdivision (g) of section 421.1 is amended to read as follows:

(g) Foster parent means any person certified [or] , licensed or approved pursuant to section 375 of the Social Services Law , and Parts 443 or 444 of this title with whom a child, in the care, custody or guardianship of an authorized agency, is placed for temporary or long-term care.

Paragraph (2) of subdivision (c) of section 421.16 is amended to read as follows:

(2) A report of a physical examination conducted not more than [six months] 1 year preceding the date of the adoption application and a written statement from a physician regarding the family's general health, the absence of communicable disease, infection, or illness or any physical condition(s) which might affect the proper care of an adopted child, shall be filed with agency. This examination shall include an intradermal tuberculin test; and additional report of chest X rays shall be required where such test is positive. If the adoptive applicant is or has been a foster parent, and the agency which certified, licensed or approved the foster parent has a completed medical report on the foster family in its records, the foster family medical report will satisfy this requirement, if the medical report was completed within the past year.

Subdivision (d) and paragraph (4) of subdivision (g) of section 421.19 are amended to read as follows:

(d) Authorized agencies operating an adoption program shall acknowledge in writing a completed application from a certified [or] , licensed or approved foster parent within 10 days of receipt.

(g) Authorized agencies shall:

(4) document in the foster family record, if recertification or reapproval is granted, why the home continues to be suitable for foster care and not for adoption.

Subdivisions (b) and (c) of section 422.1 are amended to read as follows:

(b) A child shall mean a person [receiving foster care] who is under the age of 18 or under the age of 21 if a student attending a college, school or university or regularly attending a course of vocational or technical training designed to fit him for gainful employment, and who entered foster care prior to his/her 18th birthday, who is cared for away from his home 24 hours a day in a foster family free home or a duly licensed, certified or approved foster family boarding home or a duly licensed or certified group home, agency boarding home, child care institution, health care facility or any combination thereof whose care and custody or guardianship and custody have been transferred to an authorized agency pursuant to the provisions of sections 384 or 384-a of the social services law or been placed with a social services official pursuant to articles 3, 7 or 10 of the family court act.

(c) Foster care [shall mean the care of a child away from his own home 24 hours per day in a duly licensed or certified facility] of children shall mean all activities and functions provided relative to the care of a child away from his home 24 hours per day in a foster family free home or a duly licensed, certified, or approved foster family boarding home, or a duly licensed or certified group home, agency boarding home, child care institution, health care facility or any combination thereof.

Subdivisions (a), (c) and (d) of section 427.2 are amended to read as follows:

(a) Foster care of children means all activities and functions provided relative to the care of a child away from his home 24 hours per day in a foster family free home or a duly [licensed or] certified, [facility] or approved foster family boarding home, or a duly certified group home, agency boarding home, child care institution, health care facility or any combination thereof.

(c) Foster child means a person under the age of 18 years, or under the age of 21 years if a student attending a school, college or university or regularly

attending a course of vocational or technical training designed to fit him for gainful employment, and who entered foster care prior to his/her 18th birthday, who is cared for away from his home 24 hours a day in a foster family free home or a duly [licensed or] certified [facility] or approved foster family boarding home, or a duly certified group home, agency boarding home, child care institution, health care facility or any combination thereof whose care and custody or guardianship and custody have been transferred to an authorized agency pursuant to the provisions of sections 384 or 384-a of the social services law or been placed with a social services official pursuant to articles 3, 7 or 10 of the family court act.

(d) Foster family boarding home means a residence owned, leased, or otherwise under the control of a single person or family who has been certified or approved by an authorized agency to care for not more than six children, or is used by a local probation department, the State Department of Mental Hygiene or the State Division for Youth to care for children, and such person or family receives payment from the agency for the care of such children.

Subdivisions (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o) and (p) of section 427.2 are relettered subdivisions (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p) and (q) and a new subdivision (e) is added to read as follows:

(e) Foster family free home care shall mean care provided to a foster child, at no cost to an authorized agency, by a family other than that of the child's parent, step-parent, grandparents, brother, sister, uncle, aunt or legal guardian for the purpose of adoption or for the purpose of providing care.

Subdivisions (b), (c), (d) and (e) of section 427.6 are amended to read as follows:

(b) State reimbursement shall be made only on actual payments to certified or approved foster parents providing care for children in foster family boarding

homes up to the maximum levels established by the department based upon data published by the U.S. Bureau of Labor Statistics, and other generally accepted sources, relating to the cost of raising a child in a family of four with a moderate standard of living.

(c) In the case of children who require special foster care services, State reimbursement shall be made only on actual payments to certified or approved foster parents providing care for children in foster family boarding homes. However, in no case shall reimbursement be made on payments that exceed one-third of the average, as established by the department, of the statewide cost of institutional care provided by authorized agencies.

(d) In the case of children who require exceptional foster care services, State reimbursement shall be made only on actual payments to certified or approved foster parents providing care for children in foster family boarding homes. However, in no case shall State reimbursement be made on payments that exceed one-half the average statewide cost, as established by the department, of institutional care provided by authorized agencies, or, where the child cannot be cared for in such institutions, one-half the average cost of the hospital or nursing home care which would be necessary if foster care were not provided.

(e) Where certified or approved foster parents are providing care for a child in a foster family boarding home on October 1, 1974 and are receiving payment for such care in excess of the maximum level of payment approved by the department for the type of care provided, State reimbursement shall continue to be made on the excess payment for so long as the child continues to receive care in that foster family boarding home.

Paragraphs (1) and (2) of subdivision (a) of section 431.8 are amended to read as follows:

(1) Foster care [shall mean care provided a child in a foster family home or boarding home, group home, agency boarding home, child institution, health care facility or any combination thereof] of children shall mean all activities and functions provided relative to the care of a child away from his home 24 hours per day in a foster family free home or a duly licensed, certified, or approved foster family boarding home, or a duly licensed or certified group home, agency boarding home, child care institution, health care facility or any combination thereof.

(2) Child shall mean a child under the age of 18 years [for whom an authorized agency is providing foster care, except a child who is in the care of an authorized agency pursuant to a court order under article 7 or 10 of The Family Court Act] or under the age of 21 years if a student attending a school, college or university or regularly attending a course of vocational or technical training designed to fit him for gainful employment, and who entered foster care prior to his/her 18th birthday, who is cared for away from his home 24 hours a day in a foster family free home or a duly licensed, certified, or approved foster family boarding home, or a duly licensed or certified group home, agency boarding home child care institution, health care facility or any combination thereof whose care and custody or guardianship and custody have been transferred to an authorized agency pursuant to the provisions of section 384 or 384-a of the social services law or been placed with a social services official pursuant to articles 3,7 or 10 of the family court act.

Paragraph (1) of subdivision (c) of section 431.11 is amended to read as follows:

(1) certification/licensing /approval status of the prior foster parent(s);

Subdivision (a) of section 441.2 is amended to read as follows:

(a) Child [, includes any individual under the age of 21] means a person under the age of 18 years or under the age of 21 years if a student attending a school, college or university regularly to fit him for gainful employment, and who entered foster care prior to his/her 18th birthday, who is cared for away from his home 24 hours a day in a foster family free home or a duly licensed, certified, or approved foster family boarding home, or a duly licensed or certified group home, agency boarding home, child care institution, health care facility or any combination thereof whose care and custody or guardianship and custody have been transferred to an authorized agency pursuant to the provisions of section 384 and 384-a of the social services law or been placed with a social services official pursuant to articles 3, 7 or 10 of the family court act.

Subdivisions (j) and (k) are added to section 441.2 to read as follows:

(j) Foster family free home care shall mean care provided to a child, at no cost to an authorized agency, by a family other than that of the child's parent, step-parent, grandparents, brother, sister, uncle, aunt or legal guardian for the purpose of adoption or for the purpose of providing care.

(k) Foster care shall mean care provided a child in a foster family free home or boarding home, group home, agency boarding home, child care institution, health care facility or any combination thereof.

The title of part 443 is amended to read as follows:

**CERTIFIED AND APPROVED FOSTER FAMILY BOARDING HOMES: AGENCY  
PROCEDURE FOR CERTIFICATION, APPROVAL, AND SUPERVISION**

Subdivisions (b) and (c) of section 443.1 are amended to read as follows:

(b) Certificate. A certificate to board permits an individual to receive remuneration from an authorized agency for the care at board of a child under the age of [18] eighteen years, or under the age of twenty-one years if a student

attending a school, college or university or regularly attending a course of vocational or technical training designed to fit him for gainful employment, and who entered foster care prior to his/her 18th birthday. Such a certificate may be issued by the public or private authorized agency purchasing such care.

(c) Foster family home care. Foster family home care is temporary or long-term care of a child whose care and custody or guardianship and custody have been transferred to an authorized agency pursuant to the provisions of sections 384 or 384-a of the social services law or who has been placed with a social services official pursuant to articles 3, 7 or 10 of the family court act and who is cared for away from his home 24 hours a day in a family home with a foster parent duly certified or approved by an authorized agency or licensed, certified, or approved by a social services commissioner.

Subdivisions (d) and (e) are added to section 443.1 to read as follows:

(d) Approved home. An approved home is a home in which temporary or long-term care is provided to a child whose care and custody or guardianship and custody have been transferred to an authorized agency pursuant to the provisions of sections 384 or 384-a of the social services law or who has been placed with a social services official pursuant to articles 3, 7 and 10 of the family court act and who is cared for 24 hours a day in a family home with a foster parent who is a relative within the second degree to the parent(s) of a child and who is duly approved by an authorized agency as required in section 444.8 of Part 444.

(e) Relative within the second degree. A relative within the second degree to the parent(s) of a child refers to those relatives who are related to the parent(s) through blood or marriage either in the first or second degree in the kinship line. A relative within the second degree of a parent, includes the following:

(1) grand-parents of the child;

(2) great-grand parents of the child;

(3) aunts and uncles of the child including the spouse of the aunt or uncle;

and

(4) siblings of the child.

Paragraphs (4), (5), (6), (9) and (12) of subdivision (a) of section 443.3 are amended to read as follows:

(4) Inform persons who express an interest in becoming certified or licensed foster parents, or persons who apply to become certified or licensed foster parents, of the provisions of section 424-a(1)(a) of the Social Services Law.

(5) Require applicants for licensure and certification to complete the forms which are necessary for the agency to inquire of the department whether the applicant has been or is currently the subject of an indicated child abuse and maltreatment report on file with the statewide central register of child abuse and maltreatment. This includes foster parents who are completing a new application in the following situations:

(i) an application for certification or licensure as foster parents has expired because it has been pending for six months or more

(ii) a previously certified or licensed foster home that was closed has reopened, and

(iii) a new adult spouse of a foster parent has recently come in to the home and has applied for certification or licensure as a foster parent.

(6) Inquire of the department whether the applicant for licensure or certification has been or is currently the subject of an indicated child abuse or maltreatment report on file with the statewide central register of child abuse and maltreatment.

(9) The application form shall elicit information including but not limited to the age, health, physical functioning, income, marital status and employment of

the applicants and information regarding the physical facilities of the prospective foster home and the names of those persons who will be sharing living accommodations with the child in foster care, whether any other application for certification, licensure, or approval has ever been made, whether such was accepted or rejected and if rejected, the reasons therefore.

(12) A medical report form shall be filed with the agency either prior to [acceptance for a home study] or after acceptance for a home study [,conditioned upon submission of an acceptable medical report form]. The medical report form shall cover a physical examination of the applicant(s) conducted not more than one year preceding the date that the application is submitted to an authorized agency and shall include a written statement from a physician regarding the foster family's general health, the absence of communicable disease, infection or illness or any physical conditions which might affect the proper care of a foster child. It shall include also the result of an intradermal tuberculin test and an additional report of chest x-rays where such test is positive. If the applicant and the applicant's family have previously completed a medical exam for an adoption study, that medical report will satisfy the requirement of this paragraph if the report has been completed within the past year.

Paragraph (14) is added to subdivision (a) of section 443.3 to read as follows:

(14) Treat all reopenings of foster homes which have closed as requests for a new license, certificate or approval. A new application shall be completed regardless of how long the home has been closed. The only exception to this requirement is when a reopening occurs for administrative reasons, i.e. when the home should not have been closed initially but because it was, a reopening is necessary.

The opening language of subdivision (b), paragraph (2) of such subdivision and subdivision (c) of section 443.3 are amended to read as follows:

(b) Authorized agencies shall orient applicants who have been accepted for a home study or in the case of relatives who are in the process of a home study to:

(2) The nature of the relationship of agency staff to foster parents and children including definitions of the function and responsibility of the social workers assigned to the children and their families; the payments to foster parents for care and expenses; the definition of foster family care, certification or approval of the home, and the rights and responsibilities of a foster parent as defined by a letter of understanding that shall be executed at the time of certification or approval.

(c) Authorized agencies shall advise applicants at the outset of the home study process that the agency decision to either certify or approve or not to certify or approve them for foster family care will be presented in writing and that applicants who are rejected will be offered a personal interview in accordance with paragraph (1) of subdivision (e) of this section.

Paragraphs (5) and (6) of subdivision (d) of section 443.3 are amended to read as follows:

(5) information from the department which notifies the agency that the applicant for certification or licensure has been or is currently the subject of an indicated child abuse and maltreatment report on file with the statewide central register of child abuse and maltreatment; and

(6) if the applicant for certification or licensure is approved, notwithstanding that the agency is notified by the department that the applicant has been or is currently the subject of a child abuse and maltreatment report on file with the statewide central register of child abuse and maltreatment, a record of the reasons

why the applicant was determined to be appropriate to receive a foster care placement, and a copy of the notice which the agency is required to send to the department pursuant to the provisions of paragraph(a)(7) of this section.

Paragraphs (1), (2) and (3) of subdivision (e) of section 443.3 are amended to read as follows:

(1) When an authorized agency decides to discontinue a home study or to deny certification or approval upon completion of the home study, it shall advise the applicant in writing of the reasons for the agency's decision and shall offer an interview to discuss the decision.

(2) A plan to discontinue a home study or to deny certification or approval for foster family care shall be reviewed and approved by one or more supervisory level personnel unless the home study was discontinued at the request of the applicant.

(3) When an agency denies an application for certification or licensure on the grounds that the department has notified the agency that the applicant has been or is currently the subject of an indicated child abuse and maltreatment report on file with the statewide central register of child abuse and maltreatment, the applicant may request a fair hearing in accordance with the procedures set forth in section 22 of the Social Services Law, and the hearing shall be conducted in accordance with the provisions of section 424-a(2)(d) of such law.

Paragraph (4) is added to subdivision (e) of section 443.3 to read as follows:

(4) An application for licensure, certification, or approval which has been pending for 6 months or more will be considered expired. This expiration will require a new application for those prospective foster parents who still seek licensure, certification, or approval.

The opening language of subdivision (f) of section 443.3, paragraph (1) of such subdivision and subparagraphs (ii) and (iv) of paragraph (2) of such subdivision are amended to read as follows:

(f) A home study shall determine compliance with all of the criteria for licensure, certification or approval set forth in Part 444 of this Title. Additionally, the agency shall evaluate the following factors:

(1) Character. Each applicant for certification or licensure shall be required to provide the agency with the names of four persons who may be contacted for references. The agency shall seek signed statements from these persons attesting to the applicant's moral character, mature judgement, ability to manage financial resources and capacity for developing a meaningful relationship with children. An in-person interview shall be held with at least two of these persons for the purpose of verifying the statements. Each applicant for approval shall be required to provide the agency with the names of two persons who may be contacted for references. These references may be either in the form of signed statements attesting to the applicant's moral character, mature judgement and capacity for developing a meaningful relationship with children or in the form of in-person interviews attesting the same.

(ii) the understanding of the foster parent role including the responsibilities of foster parents in relation to the child, the agency and the natural family;

(iv) the person's psychological readiness to assume responsibility for a child and their ability to provide for a child's physical and emotional needs;

The opening language of subdivision (g) and subdivisions (h) and (n) of section 443.3 are amended to read as follows:

(g) When a home study has been completed and an authorized agency intends to certify or approve the home, the agency shall:

(h) A certificate shall be issued to certified foster homes only after the applicant executes the agreement required by subdivision (c) of section 444.5 of this Subchapter. The authorized agency shall notify the approved relative foster parent(s) in writing that their home has been approved only after the relative executes the agreement required by subdivision (c) of section 444.8 of this Subchapter.

(n) Authorized agencies shall have a written policy and procedure governing decisions to remove a child from a foster family home and also provide each foster parent with a copy of such policy and procedure upon certification or approval and at the time of recertification or reapproval; the provisions shall conform to the requirements of section 431.10 of this Title.

Paragraph (7) of subdivision (o) of section 443.3 is amended to read as follows:

(7) a summary of each annual evaluation made pursuant to section 444.6 and section 444.9 of this Subchapter; and

Paragraphs (1) and (3) of subdivision (u) of section 443.3 are amended to read as follow:

(1) permit persons certified or approved to provide care in a foster family boarding home, to provide foster family home care for another agency without obtaining the certifying or approving agency's written consent and approval for each child or minor to be boarded. No person shall be certified or approved by more than one authorized agency;

(3) initiate action to remove a child from a placement because of change in family composition or circumstances following certification or recertification, or approval or reapproval unless there has been an evaluation of the effect of the change upon the child or children and it is determined that such change is detrimental to the best interests of the child or such change would produce a

violation of Part 444 of the Subchapter, the agreement in subdivision (h) of this section or of any statutory requirement.

The title of part 444 is amended to read as follows:

**REQUIREMENTS FOR LICENSED, [and] CERTIFIED,  
AND APPROVED FOSTER FAMILY BOARDING HOMES.**

Subdivision (a) of section 444.1 is amended to read as follows:

(a) Certificate. A certificate to board permits an individual to receive remuneration from an authorized agency for the care at board of a child under the age of ~~[18]~~ eighteen years, or under the age of twenty-one years if a student attending a school, college or university or regularly attending a course of vocational or technical training designed to fit him for gainful employment, and who entered foster care prior to his/her 18th birthday. Such a certificate may be issued by the public or private authorized agency purchasing such care.

Subdivision (c) is added to section 444.1 to read as follows:

(c) A letter of approval permits a relative within the second degree of the parent(s) of a foster child to receive remuneration from an authorized agency for the care at board of a child under the age of eighteen years, or under the age of twenty-one years if a student attending a school, college or university or regularly attending a course of vocational or technical training designed to fit him for gainful employment, and who entered foster care prior to his/her 18th birthday. Such a letter shall be issued by the local commissioner of social services or by an authorized agency, only if the home has been approved by the authorized agency as required in section 444.8 of this Part.

Subdivisions (b) and (c) of section 444.2 are amended to read as follows:

(b) A license or certificate shall not be required when children are placed or received at board with relatives within the second degree (measured collaterally), with legally appointed guardians, at schools and academies meeting with the

requirements of the Education Law as to compulsory education, and at camps operated for profit for the accommodation of school age children during school vacation periods under permits issued by health officers pursuant to Part 7 of the State Sanitary Code. When children are placed at board with relatives within the second degree, the home must be approved by an authorized agency as required in section 444.8 of this part and a letter indicating such approval issued to the approved foster parents:

(c) No child shall be placed in a foster home, either free or at board, until such home has been visited and careful inquiry made by the agency proposing to make such placement, or its representatives, and a written report filed in the foster parent's case record describing the conditions and suitability of the home and compliance with requirements of law, this Title, and the rules of local departments of health and social services.

Subdivisions (f) and (g) are added to section 444.3 to read as follows:

(f) Before any home shall be approved, careful investigation of the application, including inspection of the premises to be occupied, shall be made and a written report filed in the office to which application is made. The investigation report shall cover all the requirements of section 444.8 of this part.

(g) Letter of approval. If the home is approved, a letter of approval shall be issued to the approved foster parents. The letter shall specify at a minimum the name and address of the relative to whom issued and the name(s), age(s), sex of the child to be boarded. The letter of approval is valid for not more than one year after the date of the initial approval and expires once the child is moved from the home through discharge or transfer. The letter of approval may be renewed or extended pursuant to the requirements of this part.

Subdivisions (a) and (b) of section 444.4 are amended to read as follows:

(a) Register: Every person who receives, boards or keeps any child under license [or], certificate or approval shall keep a record of each child in a register to be provided by the department.

(b) The register and license or certificate or letter of approval shall be accessible for examination at all reasonable times by the authorized agents of the department, of the authorized agency issuing such certificate [or] , license [,] or letter of approval , and of any incorporated society for the prevention of cruelty to children. Licenses, certificates , letters of approval and registers are the property of the State and not of the person to whom issued, and shall be delivered upon demand to the issuing agency when renewed, discontinued or revoked.

Paragraph (2) of subdivision (a) of section 444.5 is amended to read as follows:

(2) Health. Each member of the household of the foster family shall be in good physical and mental health and free from communicable diseases. However, physical handicaps or illness of foster parents or members of their household shall be a consideration only as they affect the ability to provide adequate care to foster children or may affect an individual child's adjustment to the foster family. Cases shall be evaluated on an individual basis with assistance of a medical consultant when indicated. A written report from a physician on the health of a family, including a complete physical examination of the applicant, shall be filed with the agency initially and [~~annually~~] biennially thereafter. Additional medical reports shall be furnished upon the request of either the agency worker or the foster parent. Such reports shall conform to the standards set forth in subdivision (a) of section 443.3 of this Subchapter.

Section 444.6 is amended to read as follows:

444.6 Annual renewal of certificates and licenses ; reopenings and changes in certified and licensed foster homes.

(a) Agency practice and procedure for annual renewal of a certificate or license to board children shall include:

[[a]] (1) a written evaluation of the home and family that uses the criteria for certification or license as specified in this Part and in Part 443 of this Subchapter;

[[b]] (2) a written evaluation of the care provided children in the home and the working relationship of the foster parents with the agency;

[[c]] (3) a written statement from a physician about the foster family's health, if it has been 2 years since the date of the last medical exam, conforming to the standards set forth in section 444.5(a)(2) of this Part and Part 443 of this Subchapter;

[[d]] (4) an oral review of the evaluation with the foster parent before the certificate or license is renewed [;] .

(b) Agency practice and procedure for reopening of a foster home includes:

(1) completion of a new application, including a clearance through the Statewide Central Register as required in section 443.3(a)(5) of this title

(2) an update of the home-study which shall include a written evaluation of the home that uses the criteria for certification or licensure as specified in this Part and in Part 443 of this Subchapter.

(3) a written statement from a physician concerning the foster family's health which conforms to the standards set forth in Part 443 of this Subchapter, (a medical exam that was completed within the past year will satisfy this requirement) and,

(4) an oral review of the evaluation with the foster parent before a new certificate or license is issued.

(c) Agency practice and procedure when an adult spouse of a foster parent comes into the home and applies for licensure or certification includes:

(1) completion of a new application, including a clearance through the Statewide Central Register as required in section 443.3(a)(5) of this title;

(2) completion of a medical exam for the applicant as specified in section 443.3 of this subchapter; and

(3) an up-date of the home-study

Subdivision (a) of section 444.7 is amended to read as follows:

(a) Advising the foster parents before the expiration date of the certificate or license or prior to decertification that the agency (i) does not plan [recertification] to renew the certificate or license or (ii) plans to decertify them. The reasons for such action shall be specified in a letter postmarked at least 20 days before the expiration date. Decertification shall of the certificate or license or 20 days before the date of decertification. Nonrenewal or decertification may be based upon such factors as failure to meet one or more of the criteria for licensure or certification [Nonrenewal of a person currently licensed or certified may be based upon such failure] set forth in section 444.5 of this title or upon lack of need for a foster home with its particular characteristics.

Subdivision (b) of section 444.7 is repealed and subdivisions (c) and (d) of such section are relettered subdivision (b) and (c) respectively.

Sections 444.8, 444.9 and 444.10 are added to part 444 to read as follows:

444.8 Requirements for approval of foster homes operated by relatives within the second degree of the parent(s) of a foster child.

(a) Members of the household of the relative's family shall meet the following requirements:

(1) Age. Each relative who is approved as a foster parent must be over the age of 21.

I  
T  
A

(2) Health. Each member of the household of the relative's family shall be in good physical and mental health and free from communicable diseases. However, physical handicaps or illness of foster parents or members of their household shall be a consideration only as they affect the ability to provide adequate care to foster children or may affect an individual child's adjustment to the foster family. Cases shall be evaluated on an individual basis with assistance of a medical consultant when indicated. A written report from a physician on the health of the family including a complete physical examination of the applicant shall be filed with the agency initially, and biennially thereafter. Additional reports shall be furnished upon the request of either the agency worker or the foster parent(s). Such reports shall conform to the standards set forth in subdivision (a) of section 443.3 of this Title. Homes may be approved conditionally in the absence of such reports. A conditional approval is contingent upon submission of an acceptable medical report within 90 days of application.

(3) Employment. Employment of a relative foster parent outside the home shall be permitted when there are suitable plans for the care and supervision of the child at all times, including after school and during the summer. Such plans shall be made part of the foster family record and shall receive prior agency approval, unless only one of the two foster parents are working outside the home.

(4) Marital Status. The marital status of a relative shall be a factor in determining whether or not an approval shall be granted only as it affects the ability to provide adequate care to foster children. Changes in marital status shall be reported to the authorized agency and the approval shall be revoked if the change in status is not in the best interests of the child.

(b) Relative foster family boarding homes shall meet the following health and safety standards:

1  
(1) Physical facilities of the relative foster home shall be in good condition and present no hazard to the health and safety of children.

(2) Foster homes shall be in substantial compliance with all provisions of state and local laws, ordinances, rules, and regulations concerning health and safety.

T  
(3) The physical space, construction, and maintenance of each foster home and premises shall be in good repair and kept in a sufficiently clean and sanitary condition so that the physical well being as well as a reasonable degree of physical comfort is assured the members of the foster family. When considering the home in terms of its health and safety, the agency must be satisfied that;

- A
- (i) there are sufficient sleeping arrangements and space;
  - (ii) there is an adequate water supply;
  - (iii) the home is free of fire hazards and is equipped with at least one smoke detector; and
  - (iv) there are adequate bathing, toilet, and lavatory facilities.

L  
(4) No approved relative foster parent shall rent rooms to lodgers or boarders or receive and care for maternity cases, except as part of the foster care program, or conduct any business on the premises which might adversely affect the welfare of children or, except with the permission of the appropriate authorized agency, receive or care for convalescent cases.

(c) Approved relative foster parents shall execute an agreement with the authorized agency which granted the approval to operate stipulating that the foster family boarding home parent will:

(1) enable children received at board to mingle freely and on equal footing with other children in the household and in the community and to be accepted as members of the household and share in its pleasures and responsibilities;

(2) arrange for children of school age to attend school regularly as required by the Education Law;

I  
(3) never leave children under the age of 10 years alone without competent supervision, nor children above that age except as might reasonably be done by a prudent parent in case of his own children;

T  
A  
(4) except as permitted by the appropriate authorized agency, never use their foster family boarding home to care for more than two infants under two years of age, including the foster parents' own children, except in those cases where the foster parents have demonstrated the capacity to do so and a sibling group would otherwise have to be separated;

E  
(5) supply children with food of good quality, properly prepared and served at regular hours and sufficient in quantity; with due consideration to their age and special needs, children shall join at table in the meals of the household;

I  
(6) keep the clothing of children provided by the agency, parent or foster parent in proper condition of repair and cleanliness; and endeavor to provide children with a sufficient quantity of clothing, adapted to seasonal conditions, and of such style and quality as not to distinguish them from other children in the community;

C  
(7) provide for each child at board individual toilet articles suitable to his age, such as comb, toothbrush, towels and washcloths, and individual drawer and closet space;

(8) provide a suitable, well lighted place for children of school age for home study;

S  
(9) recognize and respect the religious wishes of the natural parents of children in care and endeavor to protect and preserve their religious faith;

(10) endeavor to cooperate with the agency staff in the implementation or review of each child's service or discharge plan and inform the agency of any incident or event that effects or may effect the child's adjustment, health, safety, or well being and/cr may have some bearing upon the current service plan;

(11) provide a family atmosphere of acceptance, kindness and understanding and endeavor to give each child the support, attention and recognition that facilitates adjustment to the home and that promotes the child's normal development;

(12) permit an authorized representative of the agency to enter the home to investigate in good faith a formal complaint regarding the care of the foster child; and

(13) inform the agency of any changes in marital status, family composition or number of persons residing in the home and any changes in the physical facilities comprising the foster home.

(d) The agreement required pursuant to subdivision (c) of this section shall include a statement of the preference of foster parents as required under subdivision 1-a of section 374 of the social services law and a statement of the foster parent's rights provided under section 431.10 of this title.

(e) Exceptions to the provisions of this part, other than statutory requirements set forth in this part, may be proposed by an authorized agency when it determines that such exception is necessary to board a child, is in the best interest of the child to effect such boarding arrangement and is consistent with the health, safety, and welfare of the child. Any exception, however, shall be tentative only and subject to review and ratification by the department. Boarding arrangements shall be made contingent on such approval. Upon such review, should it be determined that the exception is not in the best interest of the child to be boarded, upon notice thereof to the agency, the department shall disapprove the proposed arrangement. A report, with the reason for each such exception, shall be made by the agency upon forms prescribed by the department.

444.9 Annual review of approved relative foster homes; reopenings and changes in approved foster homes.

(a) Agency practice and procedures for annual review of an approved home shall include the following:

(1) a written evaluation of the home and family that uses the criteria for approval as specified in this part and in part 443 of this title;

(2) a written evaluation of the care provided children in the home and the working relationship of the relatives with the agency;

(3) a written statement from a physician about the relative family's health if it has been 2 years since the date of the last medical exam, conforming to the standards set forth in section 444.8(a)(2) of this part and part 443 of this title; and

(4) an oral review of the evaluation with the relative foster parent (s).

(b) Agency practice and procedure for reopening an approved foster home which previously has closed includes:

(1) completion of a new application

(2) an update of the home-study that includes a written evaluation of the home that uses the criteria for the approval as specified in this part and in part 443 of this title.

(3) a written statement from a physician, about the relative's family health conforming to the standards set forth in part 443 of this title, (a medical exam that was completed within the past year will satisfy this requirement), and

(4) an oral review of the evaluation with the foster parent before a letter of approval is sent to the home.

(c) Agency practice and procedure for changes that occur when an adult spouse of a foster parent comes into the home and applies for approval includes:

(1) completion of a new application for approval as a relative foster home;

(2) completion of a medical exam for the applicant as specified in part 444.3 of this title; and

(3) an up-date of the home-study.

444.10 Non-renewal or revocation of an approval for relative foster homes. Agency practice and procedure for non-renewal or revocation of an approval for relative foster homes shall include:

(a) Advising the relative foster parents before the expiration date on the letter of approval that the agency plans not to renew the approval of their home. Non-renewal of an approved relative's home shall be based upon such factors as failure to meet one or more of the criteria for approval as specified in section 444.8 of the part, or upon a determination by the agency that the home no longer meets the child's needs. The reasons for such action shall be specified in a letter postmarked at least 20 days before the child shall be removed, discharged or transferred from the relative's home.

(b) Advising the relative foster parent(s) that their approval will be revoked. Revocation of an approval may be based upon such factors as failure to meet one or more of the criteria for approval as specified in section 444.8 of this part, or upon a determination by the agency that the home no longer meets the child's needs. The reasons for such action shall be specified in a letter postmarked at least 20 days before the child shall be removed, discharged or transferred from the relative's home.

(c) Arranging for the relative foster parent to meet with an official of the agency to review the decision and the reasons for the agency decision.

(d) When there is a failure to meet one or more of the criteria required for approval but it is determined that continuity of the family relationships and ongoing care of the child in the relative's home is in the child's best interest and is

not inconsistent with the health, safety and welfare of the child, an exception may be made in the same manner and upon the same conditions as for an initial approval as specified in subdivision (e) of section 444.8 of this part.

(Deleted material [brackets]; new material underlined.)



Faint, illegible text at the top of the page, possibly a header or title.

A single line of faint, illegible text in the upper middle section.



A small, faint vertical mark or stamp in the lower middle section.

