



Office of Children and Family Services

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Administrative Directive

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Issuing Division/Office:	Strategic Planning and Policy Development Child Welfare and Community Services
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Subject:	Supporting Normative Experiences for Children, Youth, and Young Adults in Foster Care: Applying a Reasonable and Prudent Parent Standard
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Attachments:	Attachment A: <i>Applying the Reasonable and Prudent Parent Standard: Gathering Information to Support Normative Experiences</i> Attachment B: <i>Applying the Reasonable and Prudent Parent Standard: Caregiver Considerations</i> Attachment C: <i>Applying the Reasonable and Prudent Parent Standard: "Know" Before You Say "No"</i>

Filing References:

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		18 NYCRR 427.3 428.5(c) 428.9(c) 430.12(c) 441.25 443.2(e) and 443.3(b)	Family Court Act §§ 355.5(7); 756-a(d) and 1089		Preventing Sex Trafficking and Strengthening Families Act (P.L.113-183)

I. Purpose

The purpose of this Administrative Directive (ADM) is to provide information to local departments of social services (LDSSs) and voluntary authorized agencies (VAs) regarding the requirement to implement the reasonable and prudent parent standard (the standard) set forth in the federal Preventing Sex Trafficking and Strengthening Families Act (the Act) [P.L. 113-183]. This ADM includes (1) definitions of the standard, caregiver, and age or developmentally appropriate activities, (2) opportunities for implementing the standard utilizing the Family Assessment Service Plan (FASP) and Service Plan Review (SPR), and (3) considerations for applying the standard, including the issue of caretaker liability.

II. Background

On September 29, 2014, President Obama signed the Act into law, which amended various provisions of Title IV-E of the Social Security Act. One of the primary purposes of the Act is to improve the safety, permanency, and well-being outcomes of children, youth, and young adults¹ involved with the child welfare system. Section 111 of the Act, “Supporting Normalcy for Children in Foster Care,” requires states to support normative experiences for children through the implementation of the reasonable and prudent parent standard. The standard allows for a foster parent or a designated employee of a child care facility to make parental decisions that maintain the health, safety, and best interests of the child, as well as decisions about the child’s participation in extracurricular, enrichment, cultural, and social activities that are age and developmentally appropriate, in a way that protects the child while allowing for normative experiences.

Normative experiences are age and developmentally appropriate activities and opportunities that promote the healthy cognitive, social, emotional, physical, and educational development of children, youth, and young adults, regardless of involvement in the child welfare system. Examples of normative experiences include participating in school clubs and sports, attending summer camp, sleeping over at a friend’s house, dating, obtaining a driver’s license, volunteering in the community, and working at a part-time job. Research indicates that the more exposure to positive resources and experiences that children, youth, and young adults have, the more likely they are to

¹ For the purpose of this ADM, children, youth, and young adults in foster care will be referred to as “child.”

develop a greater sense of self; healthily cope with trauma and adverse experiences; build and strengthen resilience; develop and maintain positive, healthy, and long lasting relationships; pursue post-secondary educational and career opportunities; sustain a job; and become engaged citizens.^{2,3,4,5}

Prior to the signing of the Act, the Office of Children and Family Services (OCFS) had already been actively working to support normative experiences for children in foster care. This work included coordinating meetings with youth in foster care, foster parents, commissioners of LDSSs, and VA representatives to learn more about the experiences of children in foster care. LDSSs and VAs also participated in a survey designed to gather information on existing policies that support the healthy development and well-being of adolescents in foster care. Additionally, OCFS participated in national conference calls that emphasized the critical impact of normative experiences for children in foster care and mechanisms for promoting such opportunities, such as the standard.

In developing this policy, OCFS engaged youth in foster care, foster parents, LDSSs, and VAs to obtain their perspective on the implementation of the standard, identify potential barriers, and gather ideas for overcoming challenges. Focus groups with youth were conducted throughout the state, and LDSSs and VAs participated in a one-day symposium in which they were able to provide feedback and guidance to OCFS on considerations and strategies for applying the standard.

Several states already apply the standard. In moving forward with implementation, OCFS will explore lessons learned from these states, as well as guidance on implementation strategies from the federal Administration for Children, Youth and Families (ACYF). The Act requires the Secretary of Health and Human Services to provide technical assistance to the states on best practices for devising strategies to assist foster parents in applying the standard, as well as guidance on the issue of liability. OCFS is awaiting the receipt of such guidance. Any clarification of existing policy as well as additional information will be disseminated to LDSSs and VAs once the federal guidance has been received.

While applying the standard is pertinent for supporting normative experiences, it is also connected to the other critical components of the Act – specifically, preventing and responding to children in foster care who are victims of sex trafficking, children absent from foster care without consent, and supporting a successful transition to adulthood. The standard must be applied to each of these areas when making decisions on how to respond to and support children who may be at risk of, or have experience(s) with, sex trafficking, being absent from care, and/or transitioning out of foster care.

² Nagaoka, J, Farrington, C.A. Ehrlich, S.B. & Heath, R.D. (2015). *Foundations for Young Adult Success: A Developmental Framework*. University of Chicago Consortium on Chicago School Research and the Wallace Foundation. <https://ccsr.uchicago.edu/sites/default/files/publications/Wallace%20Report.pdf>

³ Zarrett, N. and Lerner, R.M. (2008). *Research-to-Results Brief: Ways to Promote the Positive Development of Children and Youth*. Publication #2008-11. Child Trends. <http://www.childtrends.org/wp-content/uploads/2013/01/Youth-Positive-Development.pdf>

⁴ Hanson Langford, B. and Badeau, S. (2013). *Connected by 25: A Plan for Investing in the Social, Emotional and Physical Well-Being of Older Youth in Foster Care*. Mainspring Consulting and Youth Transitions Funders Group. http://www.fostercareworkgroup.org/media/resources/FCWG_Well-Being_Investment_Agenda.pdf

⁵ National Scientific Council on the Developing Child (2015). *Supportive Relationships and Active Skill Building Strengthen the Foundations of Resilience: Working Paper 13*. <http://www.developingchild.harvard.edu>

III. Program Implications

OCFS recognizes the impact of the application of the standard on LDSSs, VAs, foster parents, congregate care staff, birth/adoptive parents, guardians, prior caretakers,⁶ and children in foster care. As OCFS continues to secure and develop guidance on the implementation of the standard, LDSSs and VAs should familiarize themselves with the key concepts pertaining to it, understand considerations that may need to be addressed prior to and during implementation, and explore existing opportunities for applying the standard.

Definitions

OCFS regulation 18 NYCRR 441.25 provides the following definitions derived from the Act as part of the reasonable and prudent parent standard mandate:

- The “reasonable and prudent parent standard” is defined as the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child in foster care while at the same time encouraging the emotional and developmental growth of the child, that a caregiver must use when determining whether to allow a child in foster care to participate in extracurricular, enrichment, cultural, and social activities.
- “Caregiver” is defined as the foster parent with whom the child in foster care has been placed; or a designated employee of a child care facility, including the institution, group residence, group home, agency boarding home or supervised independent living program in which the child has been placed.
- “Age or developmentally appropriate” is defined as activities or items that are (a) generally accepted as being suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and (b) in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

Examples of activities or items include, but are not limited to, participation in school field trips, events, and school sports teams; spending time with friends; dating; using social media; obtaining a job or volunteering.

OCFS expects that ACYF will provide guidance and best practices pertaining to the implementation of the standard. Upon receipt of relevant information, OCFS will update this ADM with additional guidelines for applying the standard.

Legal Requirements Applicable to the Standard

In response to the Act, OCFS promulgated regulatory requirements that address the documentation and service plan review requirements of the standard involving foster

⁶ “Prior caretaker” is defined as the individual, such as a grandmother, aunt or family friend, who cared for the child before he or she came into foster care.

children with a permanency planning goal (PPG) of another planned living arrangement (APPLA) in 18 NYCRR 428.5(c), 428.9(c) and 430.12(c). Regulations relating to the training of caregivers on the standard and the application of the standard by caregivers are set forth in 18 NYCRR 441.25, 443.2(e) and 443.3(b). These regulations address the obligation to train foster parents and designated child care facility staff in the requirements of the standard, and for such foster parents and designated child care facility staff to apply the standard to each child in their care.⁷

In addition, changes to the Family Court Act §§ 355.5, 756-a and 1089 were enacted, requiring documentation for permanency hearings for all categories of foster children with a PPG of APPLA of the steps taken by the LDSS to ensure that the child's foster parent(s) or child care facility is following the requirements of the standard, and that the child has regular and ongoing opportunities to engage in age or developmentally appropriate opportunities to participate in activities.⁸ Please see the Documentation section of this release for the changes being made to the CONNECTIONS permanency hearing reports in order to incorporate these new requirements.

Both the state statutory and OCFS regulatory amendments in response to the Act became effective on September 1, 2015.

IV. Required Action

Application of the Reasonable and Prudent Parent Standard: Family Assessment Service Plan (FASP), the Service Plan Review (SPR), and the Permanency Hearing

OCFS is aware that the standard may already be applied by some LDSSs and VAs. In these instances, LDSSs and VAs will need to review and update their policies accordingly to comply with the mandates put forth in statute and regulation. For those LDSSs and VAs that do not use the standard, such agencies must implement the standard to conform to applicable federal and state statute and regulation. The standard must be applied prior to specific guidance from ACYF.

All foster parents and at least one designated employee in each child care facility must apply the standard and provide children with opportunities to participate in normative experiences – the age and developmentally appropriate experiences that all children need to develop into a successful adulthood – while maintaining the health, safety, and best interests of the children in their care. All foster parents and designated employees must be trained in the application of the standard and be responsible for making these decisions for the children in care. It is recommended that LDSSs and VAs develop policies and procedures for both the selection of the designated employees in each child care facility, and the application of the standard consistent with the policies issued by OCFS and ACYF. The process to be used in the selection of the designated employee should be specified, as well as the procedures for the application of the standard in decisions regarding the children in care.

The Act mandates that at each permanency hearing for a youth with a PPG of APPLA, the LDSS must demonstrate to the court that the youth has been supported to participate

⁷ New York State Register, Vol. XXXVII, Issue 24 (June 17, 2015).

⁸ Part L of Chapter 56 of the Laws of 2015.

in normative experiences; this includes regular and ongoing opportunities to engage in age and developmentally appropriate activities, including consulting with the youth about opportunities to participate in activities. The LDSS must also document for the permanency hearing the steps taken to ensure that the child's foster parent(s) or child care facility is following the standard.⁹

Case workers, case planners and/or case managers must document information in regard to the standard, shared parenting/decision-making, and participation in normative experiences in the appropriate CONNECTIONS fields (once available). Until such time as the CONNECTIONS changes have been implemented, case workers, case planners and/or case managers should document information in the FASP, SPR, and case progress notes.

Guidance

Existing areas in which the standard should be applied include the points at which a case worker begins to gather information to complete the Family Assessment Service Plan (FASP) and the Service Plan Review (SPR). Completion of the FASP serves as one of the first opportunities to engage the birth/adoptive parents, guardian or prior caretaker. The FASP is specifically designed to "support a family-focused approach to casework"¹⁰ and is required within 30 days of a child's removal from the home. Information gathering for the initial FASP can serve as a critical first step to planning and decision-making.

In support of the standard, case workers and/or case managers should use this opportunity to engage the birth/adoptive parent, guardian or prior caretaker in discussions regarding the daily decisions and regular activities that pertain to the child, and jointly come to agreement, if possible, on ongoing participation in occurrences and activities so that there are minimum interruptions to the child's life.

NOTE: Throughout this policy, whenever it refers to consulting with or engaging a parent, guardian or prior caretaker, it means only in those situations where it is appropriate to do so. In cases where parental rights have been surrendered or terminated, there are safety concerns or the parties are not available, such consultation or discussion need not be a part of the decision-making process.

These conversations may include agreement on continued participation in extracurricular activities, travel for school trips, curfew, and frequency of haircuts and hair maintenance. While the case worker and/or case manager is seeking information to complete the FASP, the birth/adoptive parent has the opportunity to express preferences and provide feedback on efforts to support the child's safety and well-being. Refer to Attachment A for questions the case worker and/or case manager may want to ask when gathering information from the birth/adoptive parent, guardian or prior caregiver and child, if age and developmentally appropriate, about the child's day-to-day activities and participation in normative activities.

⁹ Refer to 15-OCFS-ADM-19, *APPLA for Youth Age 16 and Older*, for additional information regarding permanency hearings for youth with a goal of APPLA.

¹⁰ New York State Office of Children and Family Services. *Family Assessment Service Plan Guide*, "Module 2: The FASP." http://www.ocfs.state.ny.us/ohrd/FASP/table_of_contents.asp

Recognizing that the initial FASP is completed within the first 30 days after the removal of a child, further information may be necessary for informed decision-making; the comprehensive and reassessment FASPs serve as additional opportunities to utilize the standard. Partnership between the caregiver, biological/adoptive parent, guardian or prior caretaker, as appropriate, the child, and case worker and/or case manager should be encouraged through the review of previous decisions and development of new and additional agreements regarding the healthy development and well-being of the child. The application of the standard is an evolving concept and consideration of the standard must continue throughout the duration of the individual child's foster care placement.

Another opportunity for implementing the standard is during the SPR. One of the purposes of the SPR is to "strengthen the engagement and involvement of children, parents, and foster parents in case planning to resolve child welfare issues" (04-OCFS-INF-09). As an LDSS/VA begins to implement the standard, the SPR serves as an opportunity by which the birth/adoptive parent, guardian or prior caretaker, as appropriate, caregiver, case worker/case manager, child (if he or she is at least 10 years of age or older), and up to two additional individuals identified by a youth who is age 14 years or older¹¹ may come together to discuss and agree upon age and developmentally appropriate activities in which the child may participate, such as travel with the school and/or caregiver, haircuts, curfew, dating (if age and developmentally appropriate), sleepovers, Internet use, and other information pertinent to supporting the healthy development and well-being of the child. The ongoing interaction that occurs due to the completion of the FASP and SPR allows for the birth/adoptive parent, guardian or prior caretaker, as appropriate, caregiver, child, and case worker/case manager to regularly communicate and make decisions collaboratively as opportunities and challenges emerge.

In addition to serving as a catalyst for shared decision-making, completing the FASP and SPR are opportunities for case consultation and planning in preparation for the permanency hearing.

The application of the standard is not limited to the completion of the FASP, SPR, and permanency hearing. A wide range of opportunities for the standard exist within practice. Case workers/case managers are encouraged to promote the use of the standard during all interactions with caregivers, birth/adoptive parents, guardian or prior caretakers, and children.

Population Considerations

At the core of applying the standard is knowing the child and making decisions on an individual case-by-case basis and as part of child centered planning, with active communication between the caregiver, birth/adoptive parent, guardian, or prior caretaker, where applicable, and the child if it is age and developmentally appropriate to do so. Additionally, permitting a child to participate in an activity involves a delicate balance between responsibilities and privileges. For example, if a child is failing a class,

¹¹ As mandated in the Act, youth 14 years of age or older may invite up to two individuals of their choosing to serve as members of the case planning team. These persons are in addition to the foster parent and case worker, case planner, and case manager. One individual selected by the youth may be designated to be the youth's advisor and, as necessary, advocate on behalf of the youth, with respect to the application of the standard. An LDSS/VA may reject an individual selected by the child if the LDSS/VA has good cause to believe that the individual would not act in the best interests of the child.

the caregiver may decide that the child is not permitted to participate in social activities, such as going to the movies with friends, until the child’s grades have improved. Applying the standard allows for a caregiver to support the cognitive, social, emotional, physical, and educational development of the individual child as they would their own children by providing guidance and support, setting behavioral expectations, and establishing age and developmentally appropriate boundaries.

Recognizing this need to individualize the response to a child’s engagement in normative experiences, an LDSS, VA, and caregiver should consider the following before making a decision:

<p>Age of the child</p>	<p>The developmental and well-being needs of a young child, school-aged child, adolescent and young adult are different from each other. When applying the standard, the unique needs of the chronological and developmental age should be part of the decision-making process. For instance, allowing a child to stay overnight at a friend’s home will vary depending on the child’s age and developmental capacity.</p> <ul style="list-style-type: none"> • Age 0-5 years – The early experiences of a child impact his/her lifelong health and learning. Research indicates that for young children to meet their full potential, they need a safe, stable home that promotes their cognitive and emotional development. This includes bonding with a responsive and nurturing caregiver and having access to skill building opportunities so that the child can learn how to cope with adversity, adapt to his/her surroundings, and regulate his/her emotions.¹² In applying the standard, caregivers are able to support a child’s healthy development by supporting a bond between a nurturing adult and the child. This includes, but is not limited to, where applicable, encouraging the birth/adoptive parent to talk and play with the child; and espousing shared parenting by providing birth/adoptive parents, where applicable, with the opportunity to make decisions for their child(ren), such as hair styles and haircuts, while the child is in foster care. Additionally, the caregiver can identify and participate in skill building opportunities with the child, including but not limited to play dates, play time at home and in the park, reading books, and talking and singing with the child. • Age 6-12 years – During this developmental time frame,
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¹² Sandstrom H. & Huerta, S. (2013). *The Negative Effects of Instability on Child Development: A Research Synthesis*. The Urban Institute: Washington, DC. <http://www.urban.org/research/publication/negative-effects-instability-child-development-research-synthesis>

	<p>school-aged children are reinforcing their sense of self by talking about their feelings, showing pride in accomplishments, striving for independence, developing and testing personal values and beliefs, learning to distinguish between reality and fantasy, and other age-appropriate behavior, for example, being able to dress/undress him/herself, exploring new and different activities, having a favorite sport, hobby or activity, and focusing on setting goals.^{13,14} Additionally children of this age are exploring connections with peers and other adults, such as coaches and teachers, to further build knowledge, skills and beliefs/mindsets.¹⁵ In applying the standard, a caregiver may identify and enroll the child in activities that the child has expressed a desire to participate in or introduce the child to new activities; listen to and offer support and guidance when the child is trying to understand difficult feelings; establish and enforce reasonable limits (be warm but firm); and support bonding, where applicable, between the child and his/her birth/adoptive parent, guardian or prior caretaker. Additionally, as part of the standard, where applicable, the birth/adoptive parent, guardian or prior caretaker should be engaged in the decision-making as it pertains to the child's participation in activities and opportunities.</p> <ul style="list-style-type: none"> • Age 13-17 years – Adolescence is a challenging developmental time period for all youth; for a child in foster care, it is especially difficult as the child is trying to balance the phases of adolescence and the transition into young adulthood with attaining a safe and permanent home that supports the difficult and oftentimes bumpy journey through the teenage years. During this phase, youth are eager to think and act independently, learn their interests and talents, experiment and take risks, and practice independent decision-making. Connections with peers have a significant role during this developmental phase, as a youth tries to understand him/herself in relation to the surrounding world. A caregiver's application of the standard includes efforts to
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¹³ New York State Office of Children and Family Services (2015). *Child Development Guide*.

<http://ocfs.ny.gov/main/fostercare/assets/ChildDevelGuide.pdf>

¹⁴ New York City Administration for Children's Services (2005). *Handbook for Healthy Development of Children and Youth* Third Edition.

<http://www.nyc.gov/html/acs/downloads/pdf/Handbook%20for%20Healthy%20ENG.pdf>

¹⁵ Nagaoka, J, Farrington, C.A. Ehrlich, S.B., & Heath, R.D. (2015). *Foundations for Young Adult Success: A Developmental Framework*.

	<p>support the youth in applying logic, reasoning and observation to solve problems and make decisions, and to cultivate independent living skills, regardless of the youth’s permanency goal, by modeling positive adult behaviors (e.g., responsibly managing money and credit); actively engaging the youth in conversations that identify his/her interests, goals, and steps to achieve goals; encouraging and permitting participation in school and other social activities; allowing for a youth to safely take age and developmentally appropriate risks (e.g., driving a car, taking public transportation alone, running for student council); supporting developmental milestones (e.g., a youth’s participation in a driver’s education course and obtaining a driver’s license, finding a part-time job); and assisting the youth to learn more about adolescent development (e.g., physical and emotional changes that occur during puberty) and healthy sexual identity and behavior, including responsibilities, choices, and consequences.^{16,17}</p> <ul style="list-style-type: none"> • Age 18-21 years – Efforts to implement the standard with young adults in foster care will need to be applied differently as these young people are legally adults and have the ability to exit foster care based on their own decision at any time. In such circumstances, the young adult should be supported to make decisions and hone his/her independent, critical thinking skills as part of preparation for a successful adulthood. This includes, but is not limited to, providing a safe space for the young adult to try new things and learn from successes and failures; supporting the young adult in advocating for him/herself; providing help when needed; supporting the youth in long-term planning; and assisting the young adult in thinking about and being accountable for one’s actions and the consequences of those actions.
<p>Children in foster boarding homes</p>	<p>Foster boarding homes are intended to be less restrictive than congregate care and allow for more opportunities to engage in normative experiences. OCFS regulations have long required that foster parents enable children in foster care to mingle freely and on an equal footing with other children in the household and in the community, and to be accepted as members of the</p>

¹⁶ New York State Office of Children and Family Services (2015). *Child Development Guide*.

¹⁷ Harper Browne, C. (2014). *Youth Thrive: Advancing Healthy Adolescent Development and Well-Being*. Washington, DC: Center for the Study of Social Policy. <http://www.cssp.org/reform/child-welfare/youth-thrive/2014/Youth-Thrive-Advancing-Healthy-Adolescent-Development-and-Well-Being.pdf>

	<p>household and share in the pleasures and responsibilities of the household [18 NYCRR 443.3(b)(1)]. Although a foster boarding home may not have as many limitations for children in foster care, a foster parent may be tempted to consider his/her own licensing or risk of liability above the developmental needs and critical skill development of the child; thus, deferring to the LDSS or VA for permission for a child to participate in normative experiences. Such practice often results in the child missing out on activities and opportunities due to lengthy and unclear approval processes.</p> <p>To promote and increase a child’s participation in age and developmentally appropriate activities and opportunities, foster parents must apply the standard [18 NYCRR 441.25(b)]. This includes the empowerment of foster parents to make day-to-day decisions to allow for a child to participate in experiences that will contribute toward the development of critical life skills, such as the ability to consider benefits and risks and make a decision based on such assessments, self-regulation, healthy coping, and the ability to have healthy relationships.</p> <p>When applying the standard to the consideration of the activities and opportunities in which the child may participate, the foster parent should, where appropriate, engage the child’s birth/adoptive parent, guardian or prior caretaker, and child (if age and developmentally appropriate) in decision-making. The input and position of the birth/adoptive parent, guardian or prior caretaker, if it is appropriate to engage them, should be considered in the decision-making process. However, if the foster parent, case worker/manager, and child (if age and developmentally appropriate) determine that an alternative decision is appropriate and in the best interests of the child, then the foster parent and child may move forward with that alternative decision. The case worker/manager must document the determination and the basis for such determination in the child’s case record. It is recommended that the foster parent also record this in the notebook maintained for that child.</p>
<p>Children in congregate care</p>	<p>The experiences of children in congregate care [institution, group residence, group home, agency boarding home, or SILP] differ from those who reside in foster boarding homes. Opportunities to participate in normative experiences may be more restricted based on the needs and functional capacity of the child. Congregate care providers must designate at least one employee on-site in each facility to apply the standard [18 NYCRR 441.25(c)]. This person must be trained on how to use</p>

	<p>and apply the standard in the same manner as a prospective foster parent. In order to fully implement the standard, it is recommended that LDSSs and VAs assign at least one employee per shift in each facility to serve in this capacity. This will allow for a child to have access to an adult who is empowered to apply the standard regardless of the time or day of the week (e.g., Friday after 5 p.m.). LDSSs and VAs should explore opportunities in which the child can participate both within and outside of the congregate care setting that will support the child in the development and honing of critical life skills. Such opportunities may include, but are not limited to, the child's participation on sports teams and in other extracurricular activities outside of the congregate care setting; providing and supporting peer-to-peer mentorship; volunteering in the community; and working a part-time job.</p> <p>Additionally, as part of applying the standard, congregate care staff should engage, to the extent possible and as appropriate, the child's birth/adoptive parent, guardian or prior caretaker as well as the child (if age and developmentally appropriate) in decision-making. The input and position of the birth/adoptive parent, guardian or prior caretaker, where this is appropriate, should be considered in the decision-making process. However, if the case worker/manager, and child (if age appropriate) determine that an alternative decision is appropriate and in the best interests of the child, then the caregiver and child may move forward with that alternative decision. The case worker/manager must document the determination and the basis for such determination in the child's case record.</p>
<p>Children with developmental and/or physical disabilities</p>	<p>The child's developmental and physical capacities play a role in determining the activities and opportunities in which the child may participate. It is imperative that the caregiver understand such cognitive and/or physical abilities prior to agreeing on the child's participation in normative experiences.</p> <p>In applying the standard, the caregiver should, where appropriate, engage the child's birth/adoptive parent, guardian or prior caretaker speak with the child's health care provider(s), teachers and other adults as appropriate, and observe and interact with the child to learn about and understand the child's developmental and/or physical capacity. Once this is understood, the caregiver may identify activities and opportunities to support the optimal development of the child that are developmentally and/or physically appropriate, e.g., sports teams for children with developmental disabilities or physical limitations, discussing with</p>

	<p>coaches options for making adaptations to include the child in sports, and educational programs that support integrated classrooms.</p> <p>The child’s developmental and/or physical disabilities should not serve as a barrier to participation in appropriate activities and opportunities that develop the critical life skills necessary for the child to thrive.</p>
<p>Children with a behavioral diagnosis</p>	<p>In order to apply the standard, a caregiver must be aware of a child’s behavioral diagnosis and adjust a child’s participation in activities and opportunities accordingly. It is recommended that the caregiver work closely and communicate regularly with the child’s mental health provider to better understand the child’s mental health diagnosis and to address the child’s mental health needs.</p> <p>Additionally, the caregiver should seek guidance and feedback from the mental health provider and others who serve as a support or resource to the child, such as the child’s teacher(s) or guidance counselor, in identifying and selecting coordinated services, activities and opportunities that will assist the child in learning how to manage his/her behavioral diagnosis, developing a healthy bond with a caring and nurturing adult, and developing a healthy sense of self. The caregiver should, where appropriate, engage the child’s birth/adoptive parent, guardian or prior caretaker, and child (if age and developmentally appropriate) when considering the various activities or opportunities in which the child may participate.</p>
<p>Children who use or abuse substances</p>	<p>As part of knowing the child and being able to effectively apply the standard, a caregiver must be aware if the child is using or abusing alcohol and/or substances and respond accordingly. The caregiver should discuss the situation with the case worker, case planner or case manager regarding treatment services (inpatient or outpatient, as appropriate) and supports to help the child to stop consuming alcohol and/or other substances.</p> <p>Additionally, the caregiver should work with an addiction treatment professional to identify activities and opportunities that safely support the healthy development of the child, including participating in peer-to-peer counseling sessions, and provide the child with education about the disease of addiction and its impact on the self. In supporting the child, the caregiver should, where appropriate, also be engaging the child’s birth/adoptive parent, guardian, or prior caretaker, and the child (if age and</p>

	<p>developmentally appropriate) when considering treatment options, activities, or opportunities.</p>
<p>Expecting and Parenting Children</p>	<p>Supporting expectant mothers and young parents in foster care is pivotal to reducing the risk that the young parent's child will enter the foster care system. In applying the standard, the caregiver can provide the support necessary to keep the young parent enrolled in school and keep him or her from falling behind due to absences related to childbirth and parenting.</p> <p>The caregiver should talk to the young person about educational programs and opportunities that provide child care services and assist the young parent in safely caring for the baby. By doing this, the caregiver will not only model positive parenting behavior but also educate the young parent(s) on the importance of co-parenting, healthy and safe sexual activity, meeting the developmental needs of the baby.</p> <p>Keep in mind that although this young person might be preparing for the birth of a child or might already be a parent, he or she is still a child with needs as well, and still needs support throughout the trials and tribulations of adolescence and young adulthood right along with those of parenthood.</p> <p>As the caregiver is supporting the expectant child/young parent(s), efforts, where appropriate, should be made to engage the child's birth/adoptive parent, guardian, or prior caretaker as well as the child in decision-making.</p>
<p>Youth placed due to adjudication of delinquency or Persons in Need of Supervision (PINS)</p>	<p>Caregivers of foster children in residential programs operated by VAs and non-secure OCFS-operated residential programs with 25 or fewer beds must apply the standard. The caregiver must be aware of the behavioral and delinquent history of the child and set boundaries as appropriate when permitting a child to participate in normative experiences.</p> <p>The child's behavioral or delinquent history should not prohibit the child from participating in activities and opportunities that support his/her developmental growth; however, the caregiver must consider the delicate balance between the child's responsibilities and privileges, the legal responsibility of the agency to supervise the child, and the safety of the community when determining whether or not to allow a child to participate in skill development activities. Additionally, the caregiver should, where appropriate, engage the child's birth/adoptive parent, guardian, or prior caretaker and child (if age and developmentally</p>

	<p>appropriate) in identifying and making decisions pertaining to opportunities that are age and developmentally appropriate.</p>
<p>Victims of sex trafficking</p>	<p>The standard should be applied to both prevent and respond to children in foster care who are at risk of becoming or are victims of sex trafficking.¹⁸ If a child discloses to the caregiver that he or she had been a victim of sex trafficking, foster parents must immediately report this to the child’s case worker, case planner or case manager. Employees of a child care facility should follow their agency’s procedures to ensure that this is reported to law enforcement as described in 15-OCFS-ADM-16.</p> <p>In instances where the foster child has been identified as a sex trafficking victim, the caregiver should follow the applicable local protocols regarding case management and coordination. LDSSs and VAs should explore resources that exist locally to provide appropriate services. In applying the standard to these children, caregivers may seek out activities and opportunities that assist the child in building a positive sense of self; help the child to healthily cope with trauma and other adverse experiences; and, educate the child about the definition of sexual exploitation and its negative impact. If appropriate, the caregiver should engage the child’s birth/adoptive parent, guardian or prior caretaker and child (if age and developmentally appropriate) in identifying opportunities that will advance the child’s healthy development in a safe and permanent home.</p>
<p>Children who are missing from care</p>	<p>If the child is absent from the foster boarding home or child care facility without the knowledge and/or consent of the caregiver, it must first be ascertained if the child’s safety might be at risk because her or she has either run away or been abducted. In either case, the absence without consent must be reported to law enforcement and to the National Center for Missing and Exploited Children by the applicable authorized agency within 24 hours after receiving notice of the absence [18 NYCRR 431.8].</p> <p>In applying the standard to children missing from care, it will be necessary to make diligent efforts to locate the child. If the child has a cell phone, call or text the child. Contact his or her friends and check places the child frequently visits. If the child’s whereabouts are not known after the caregiver has exhausted efforts to find him or her, the caregiver will need to apply OCFS regulatory procedures for foster children who are absent without</p>

¹⁸ Refer to 15-OCFS-ADM-16 for definition of “sex trafficking.”

	<p>consent from their foster care placement.</p> <p>Understanding the need for children to participate in normative experiences is instrumental in preventing children from running away from foster care and may assist in stabilizing children upon their return to care. When the child returns, applying the standard would include, but not be limited to, such things as developing agreements with the child, if age and developmentally appropriate, that espouse communication, a balance between responsibilities and privileges, and the ability to participate in normative experiences, such as attending parties and working a part-time job.</p> <p>Additionally, the caregiver, where appropriate, should engage the child’s birth/adoptive parent, guardian or prior caretaker in identifying opportunities and activities that will prevent and minimize the likelihood that the child will run away from care.</p>
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Caregivers, case workers, case planners, and/or case managers are encouraged to refer to Attachment B, “Applying the Reasonable and Prudent Parent Standard: Caregiver Considerations” and Attachment C, “Applying the Reasonable and Prudent Parent Standard: ‘Know’ Before You Say ‘No’,” for guidance on questions a caregiver may want to consider prior to making a decision and commonly asked questions and answers for supporting the normative experiences of children in foster care.

Regardless of the young person’s age, developmental and/or physical capacity, placement setting, and his or her experiences prior to entering the child welfare system, and while in foster care, adults play a significant role in shaping the healthy development and well-being of children, youth, and young adults. Providing children with supervision and guidance appropriate to their age and development, setting appropriate boundaries, balancing responsibility with privilege, and providing a safe environment permits the development of a sense of self; participation in healthy risk-taking activities; the ability to safely make mistakes and learn from them; and the creation of a supportive network of family, friends, and community. All of these elements are needed to help children acquire the essential life skills which give them a meaningful chance at achieving safety, permanency, and well-being.¹⁹

As LDSSs, VAs, and caregivers apply the standard, it is anticipated that additional scenarios may arise that will require unique considerations. LDSSs, VAs, and caregivers are encouraged to communicate these occurrences to the applicable OCFS regional office to allow for shared learning across the regions. Additionally, such information will be valuable as New York State and other states continue to explore and advance efforts for promoting normative experiences for children in foster care.

¹⁹ Pokempner, J., Mordecai, K., Rosado, L., & Subrahmanyam, D. (2015). *Promoting Normalcy for Children and Youth in Foster Care*. Juvenile Law Center. http://jlc.org/sites/default/files/publication_pdfs/JLC-NormalcyGuide-2015FINAL.pdf

V. Systems Implications

Fields within CONNECTIONS are being developed to capture information pertaining to the child's participation in age and developmentally appropriate activities and decision-making. In the meantime, case workers, case planners and/or case managers should document information in regard to the standard, shared parenting/decision-making, and participation in normative experiences in the FASP, SPR, and case progress notes in CONNECTIONS.

Changes to the permanency hearing report to incorporate the documentation of the steps taken to ensure that the youth's foster home or congregate care facility is following the standard, and that the youth has regular, ongoing opportunities to engage in age or developmentally appropriate activities, will be announced at a later date.

VI. Additional Information

Costs

The cost associated with an activity may be a factor in considering if it is possible for the child to participate. All costs should be reasonable and allowable. The rate received by the foster boarding home or congregate care facility is expected to cover most of the expenses involved with the care of the child, including most routine activity expenses. Some unusual costs may be allowable as special payments subject to the approval of the applicable LDSS.²⁰ For these more expensive activities, foster parents should work with their LDSS.

Liability

Section 111 of the Act provides that the standards established by the states in regard to the standards for foster homes and child care facilities include policies related to the liability of foster parents and agencies under contract with the state (or LDSSs) involving the application of the standard. Such policies must "ensure appropriate liability for caregivers where a child participates in an approved activity and the caregiver approving the activity acts in accordance with the reasonable and prudent parent standard." The Act does not expressly clarify what "appropriate liability" means and does not address whether or how state policies must address such issues as immunity or indemnification. To date, OCFS has not received additional federal guidance on this subject.

In New York State, where a child in foster care is injured as a result of an activity carried out as part of the standard, New York State common law standards for negligence, intentional wrongdoing and gross negligence, as evolved over the years in the case law of this state, would apply. There is no separate statutory liability standard applicable to caregivers on the subject of the reasonable and prudent parent standard.

²⁰ 18 NYCRR 427.3

This ADM provides policy and guidance on the steps a caregiver can take to limit the potential exposure to liability and, even more importantly, to limit the potential for injury to a child in foster care.

LDSSs, VAs, and caregivers are encouraged to utilize a collaborative approach via shared parenting to reduce the potential exposure to liability. This includes promoting partnership between (where appropriate) the birth/adoptive parent, guardian or prior caretaker, case worker, case manager, the caregiver, and the child (if age and developmentally appropriate) to jointly make decisions that impact and influence the day-to-day activities of the child. This approach should begin when developing the initial FASP and continue throughout the child's placement in foster care. Using this approach when the child is first placed is a strategy for establishing guidelines for day-to-day decisions about activities, e.g., riding a bike, playing sports and other such decisions. For other activities, such as traveling out-of-state on a family vacation or getting a driver's license, a larger discussion may be indicated prior to making the decision.

To assist in limiting exposure to liability it is recommended that caregivers document their communications with the parties involved in applying the standard for each of the foster children for whom the caregiver is responsible. For example, a foster parent may consider documenting communications in a notebook.

Participation in training on the standard and the application of the standard as set forth in training are important steps caregivers can utilize to limit exposure to liability.

As stated in this release, the application of the standard is a child-specific, case-by-case process. It is therefore also important in regard to avoidance of liability for the caregiver to be familiar with the child for whom the caregiver is making reasonable and prudent parenting decisions. This includes the child's past and current condition. For example, foster parents need to receive and be familiar with the information the LDSS or VA placing the foster child must provide to the foster parent regarding that child, as required by 18 NYCRR 443.2(e)(3). This information includes, but is not limited to, information on the health of the child, handicaps and behavioral problems, school and educational experiences, and the relationship between the child and his or her birth parents.

For caregivers in child care facilities, it is equally important to be familiar with the individual foster child's case history, including health, behavioral and clinical information, as well as internal agency records such as incident logs.

There may be instances where a caregiver is uncertain whether he or she is able to consent to an activity. In this case, a foster parent should contact the child's case worker or the person so designated by the applicable LDSS or VA prior to granting consent. An employee in a child care facility should contact the child's case manager or person so designated by the LDSS using the appropriate procedures. In all cases, all such communications must be documented.

Caregivers, including foster parents, should receive and be familiar with this release and subsequent OCFS releases on the topic of the reasonable and prudent parenting standard

Additionally, caregivers, birth/adoptive parents, guardians or prior caretakers, case workers, case planners and/or case managers, and children (if age and developmentally

appropriate) are encouraged to utilize all of the attachments included with this ADM for guidance on commonly asked questions and considerations that should be explored prior to making a decision.

Documentation

LDSSs and VAs must document in CONNECTIONS the decisions made pertaining to the standard and the child's participation in normative experiences.

Changes to the permanency hearing report to incorporate the documentation of the steps taken to ensure that the youth's foster home or congregate care facility is following the standard, and that the youth has regular, ongoing opportunities to engage in age or developmentally appropriate activities, will be announced at a later date.

For caregivers, such as foster parents, who do not have access to CONNECTIONS, it is recommended that they maintain a notebook to record their contacts and discussions with others on applying the reasonable and prudent parent standard in relation to a particular child. Caregivers should also document other steps they have taken for the safety of the child such as the purchase or securing of safety equipment for a particular activity, such as a bicycle helmet for biking, or shin guards for soccer.

Training

The standard is a shift in the culture of foster care for New York State. Critical to this change is training. There are two primary categories of persons who need training – those who will implement the standard, and those who will need to understand their role in supporting the implementation of the standard.

Those who will implement the standard include foster parents and designated staff located in an institution, group residence, group home or agency boarding home. The training will be available via the Human Services Learning Center (HSLC) by the end of September. For caregivers who do not have access to the HSLC, an account may be set up through the LDSS/VA. The training includes an overview of the regulatory definitions of the standard, caregiver, and age or developmentally appropriate activities; the importance of applying the standard to support normative experiences; suggestions for how to start applying the standard via the FASP and SPR; preparing for the permanency hearing for youth with a goal of APPLA; considerations for making decisions; and caregiver liability. Participation in the training is mandatory for all current and prospective foster parents, as well as the congregate care staff who have been designated to apply the standard. LDSSs and VAs should arrange for these groups to participate in the training as soon as possible.

The training for caregivers will also be available to those who serve a role in supporting the implementation of the standard – case workers, case planners, case managers, and supervisors. LDSS and VA staff may access the training via the HSLC.

Given the pivotal role of partnership in applying the standard, LDSSs and VAs may consider sharing the online training with birth/adoptive parents, guardians, and caretakers so that they are aware of and can actively participate in the implementation of the standard. The training will help them understand the importance of normative

experiences for children in foster care, and support the healthy development of their child(ren).

The online training is the first phase of training for caregivers and LDSS/VA staff. As guidance is made available from ACYF and as the state gains experience in applying the standard, additional training opportunities may be developed to more comprehensively address the demands and needs of those applying and supporting the implementation of the standard.

Attachments

- A. *Applying the Reasonable and Prudent Parent Standard: Gathering Information to Support Normative Experiences*
- B. *Applying the Reasonable and Prudent Parent Standard: Caregiver Considerations*
- C. *Applying the Reasonable and Prudent Parent Standard: “Know” Before You Say “No”*

VII. Effective Date

This ADM is effective immediately.

Thomas R. Brooks

Issued By: Name: Thomas R. Brooks
Title: Deputy Commissioner
Division/Office: Strategic Planning and Policy Development

Laura M. Velez

Issued By: Name: Laura M. Velez
Title: Deputy Commissioner
Division/Office: Division of Child Welfare and Community Services

Applying the Reasonable and Prudent Parent Standard: Gathering Information to Support Normative Experiences

Removal from the home is a difficult and traumatic experience for a child.¹ Gathering information to allow for uninterrupted participation in daily activities and agreement on normative experiences are approaches to minimizing that trauma and supporting the healthy development of the child. Below are questions a case worker, case planner, and/or case manager may ask a birth/adoptive parent, guardian, or prior caretaker² and child (if age and developmentally appropriate) to support continued, uninterrupted participation in normative experiences. Answers to these questions should be shared with the caregiver and child (if age and developmentally appropriate).

Is the child currently involved in any school or extracurricular activities? If yes, what are they and at what time (e.g., after school)? Is there a schedule? How does the child get to/from the activity? Does participation in the activity require out of county, state and/or country travel? What is the contact information for the person in charge?

Is there a cost associated with the activity? If so, what is the cost and how has it been paid?

What are the child's interests? For example, does the child have interests in a particular sport, dance, music, etc.? How does the child express those interests?

What are the child's strengths? For example, does the child diligently complete his/her homework assignments; is the child willing to help others?

What are the child's needs? For example, does the child need reassurance when making decisions, or does he/she need reminders to brush his/her teeth before bed?

Does the child attend religious services or is the child involved in any religious activities? If so, where and when?

Are there any dietary restrictions for medical or religious reasons, or for personal preference?

If age appropriate, what time would you like the child to go to bed?

How should the child's current hair cut/style be maintained?

Does the child have any social media accounts (e.g., Facebook, Twitter, Instagram)? If so, are there any restrictions placed on the child's use of those accounts? Do you require that the child provide his/her password so that the usage of the account can be monitored?

Does the child use anyone else's social media accounts?

¹ For the purposes of this document, the term "child" refers to children, youth, and young adults.

² Prior caretaker is defined as the individual, such as a grandmother, aunt or family friend, who cared for the child before he or she came into foster care.

Attachment A

Is the child allowed to visit and/or stay overnight at a friend's house? If yes, which friend(s)?

If age appropriate, is the child allowed to date? Does the child have a current boyfriend or girlfriend? Is the child sexually active?

If age appropriate, does the child have a curfew? If so, what is it?

Does the child work a part-time job? If yes, where and at what time does his/her shift start and end? How does the child get to/from work?

Has the child's job affected his/her grades in school, or the ability to complete homework or other school assignments on time? Has working limited the child's ability to participate in after school activities or athletics? Are these activities important to the child?

If age appropriate, does the child have a driver's license? If yes, do you allow the child to drive?

If age and developmentally appropriate, is the child allowed to travel in a friend's car to/from school and/or activities?

For a child who is an adjudicated juvenile delinquent, PINS, or in a Close to Home placement

Is the child restricted from any community locations? If yes, where and why?

Is the child receiving aftercare services? If yes, what and where?

Applying the Reasonable and Prudent Parent Standard: Caregiver Considerations

At the core of applying reasonable and prudent parent standard is knowing the child and making decisions on an individual case-by-case basis, with active communication between the caregiver¹, birth/adoptive parent, guardian or prior caretaker², and the child³ (if age and developmentally appropriate). Below are questions and considerations a caregiver may want to ask or explore prior to making a determination as to whether or not a child should participate in normative experiences.

Does this activity promote the child's cognitive, social, emotional, physical, and/or educational development?

How well do I know the child? Has the child only recently been placed in my care, or has he/she been here for several months?

Has the child shown maturity in decision-making and exhibited responsible behavior that is appropriate for their age/ability?

Would I allow my own child to participate in this activity?

Who will be attending the activity?

If appropriate, who will be supervising the activity? Have I met the person? Do I have the person's contact information? Have I shared my contact information with the person supervising the activity and the child?

Does the child understand his/her medical needs and is he/she able to tell others how to help him/her if necessary?

Does the child know who to call and how to respond in case of an emergency?

Have I reviewed any medical or other history in considering whether the activity is in the child's best interests?

Do I have sufficient information about the child's medical/developmental/educational history to make decisions? If I need additional information, do I know where to obtain it?

Does the child have the necessary and appropriate safety equipment, such as bicycle helmet, shin guards, etc.?

Will this activity violate a court order?

¹ "Caregiver" is defined as the foster parent with whom the child in foster care has been placed; or a designated employee of a child care facility, including the institution, group residence, group home, agency boarding home or supervised independent living program in which the child has been placed.

² Whenever we refer to consulting with or engaging a birth/adoptive parent, guardian or prior caretaker, we mean only in those situations where it is appropriate to do so. In cases where parental rights have been surrendered or terminated or there are safety concerns or the parties are not available, such consultation or discussion need not be a part of the decision-making process.

³ For the purpose of this document, the term "child" refers to children, youth, and young adults.

Attachment B

Would the activity violate the safety plan? If there is a safety plan, has it been shared with the child?

Will the timing of this activity interfere with a sibling, grandparent, or parental visitation, counseling appointment or doctor's appointment? If so, how will you resolve the conflict?

Does the child understand our parental expectations regarding curfew, seeking and receiving approval for last minute changes in the child's plans, and the consequences for not complying with the expectations?

Does the child understand that his/her participation in this activity is dependent on maintaining all other obligations, such as regular school attendance and completion of school assignments?

If able and appropriate, have I consulted with the child's birth/adoptive parent, guardian or prior caretaker about this/her thoughts/feelings about the child participating in this particular activity?

Applying the Reasonable and Prudent Parent Standard: “Know” Before You Say “No”

Introduction

On September 29, 2014, President Obama signed the Preventing Sex Trafficking and Strengthening Families Act (the Act) into law, which amended various provisions of Title IV-E of the Social Security Act. One of the primary purposes of the Act is to improve the safety, permanency, and well-being outcomes of children, youth and young adults¹ involved with the child welfare system. Section 111 of the Act, *Supporting Normalcy for Children in Foster Care*, seeks to advance the well-being of children, youth and young adults by requiring states to support normative experiences for children through the implementation of the reasonable and prudent parent standard (the standard). The standard allows for a caregiver² to make parental decisions that maintain the health, safety, and best interest of the child, as well as decisions about the child’s participation in extracurricular, enrichment, cultural and social activities that are age and developmentally appropriate, in a way that protects the child while allowing for normative experiences.³

New York State amended state statute and OCFS regulations to implement the Act. These amendments took effect on September 1, 2015.

“Know” Before You Say “No” is intended to answer frequently asked questions that may assist in applying the standard. Caseworkers, case planners, case managers, foster parents, and congregate care staff are encouraged to refer to this Q&A tool when considering a child’s participation in normative experiences.

For additional information pertaining to the application of the standard and population considerations, refer to OCFS regulation 18 NYCRR 441.25 and 15-OCFS-ADM-21.

Frequently Asked Questions and Answers

If the birth/adoptive parent, guardian or prior caretaker disagrees with a decision, is that the ultimate decision as to whether a child can participate in a normative experience?

Where appropriate, the input and position of the birth/adoptive parent, guardian or prior caretaker should be considered in the decision making process. This input is dependent on the individual situation. In cases where parental rights have been surrendered or terminated or there are safety concerns or the parties are not available, such consultation or discussion

¹ For the purpose of this document, children, youth, and young adults in foster care will be referred to as “child.”

² The Office of Children and Family regulation 18 NYCRR 441.25 defines “caregiver” as the foster parent with whom the child in foster care has been placed; or a designated employee of a child care facility, including the institution, group residence, group home, agency boarding home or supervised independent living program in which the child has been placed.

³ Normative experiences are age and developmentally appropriate activities and opportunities that promote the healthy cognitive, social, emotional, physical, and educational development of children, youth, and young adults, regardless of their involvement in the child welfare system.

should not be a part of the decision-making process. However, if the caregiver, case worker, case planner, case manager, and child (if age and developmentally appropriate) determine that an alternative decision is appropriate and in the best interest of the child, then the caregiver and child may move forward with that alternative decision. The determination and the basis for such determination must be documented in the child's case record.

If the child gets hurt while participating in an activity that a caregiver has approved, is a caregiver liable?

In New York State, where a foster child is injured as a result of an activity carried out as part of the standard, the New York State common law standards for negligence, intentional wrongdoing and gross negligence, as evolved over the years in the case law of this state, would apply. There is no separate statutory liability standard applicable to caregivers on the subject.

However, the following guidance is offered on how a caregiver can take steps to limit potential exposure to liability and, even more importantly, to limit the potential for injury to a child in foster care.

- Inquire about and be familiar with OCFS policies that relate to the application of the reasonable and prudent parent standard;
- Follow the guidance provided by the applicable LDSS concerning the particular child;
- Participate in available trainings on the subject of reasonable and prudent parenting;
- If there is uncertainty regarding a particular issue concerning a child's activities, foster parents should consult with the child's case worker and facility staff should consult with appropriate supervisory staff on such decisions regarding the child;
- Be aware of the positions and wishes of the birth parents, guardians or prior caretakers, and consult with them as appropriate;
- Discuss the activity with the child and if the activity occurs, receive feedback from the child and monitor for changes in child's behavior, health or other functions;
- Record all communications relating to the consideration and application of the reasonable and prudent parent standard in relation to a particular child;
- Staff in congregate care facilities applying the standard should be familiar with the foster child's case record, including, but not limited to, relevant health, behavioral and clinical information;
- Be aware of medical reports or court orders that limit activities and apply the reasonable and prudent parent standard in a manner consistent with such report or order;
- For foster parents, receive and be familiar with placement information that must be provided to the foster parent regarding a foster child placed in the foster home as required by OCFS regulation.⁴
- Make sure that foster children receive medical checkups as prescribed by OCFS regulations and medical directives;
- Be aware of and comply with the child's school policies on athletic injuries.

⁴ Office of Children and Family Services. *New York State Foster Parent Manual*, p.13.
<http://ocfs.ny.gov/main/publications/Pub5011.pdf>

Attachment C

Additionally, caregivers are encouraged to refer to 15-OCFS-ADM-21 for guidance on how a caregiver can take steps to limit potential exposure to liability and, even more importantly, limit the potential for injury to a child in foster care.

Additionally, caregivers, birth/adoptive parents, guardians or prior caretakers, case workers, case planner, case managers, and children (if age and developmentally appropriate) are encouraged to utilize all of the attachments included with 15-OCFS-ADM-21 for guidance on commonly asked questions and considerations that should be explored prior to making a decision.

Is a congregate care staff person required to contact the Justice Center when a child is injured while participating in an approved activity?

Depending on the severity of the injury, congregate care staff may be required to contact the Justice Center if a child is injured while participating in an approved activity.

Is a caregiver allowed to sign permission slips for school activities (e.g., field trip, sports team)?

The first consideration is to be aware of the policy of the school district as to who may sign the permission slip on behalf of the child. If the school district allows caregivers to sign, subject to the considerations referenced in the next paragraph, a caregiver may sign permission slips allowing a child to participate in school activities. For example, if the child is attending a school trip to a museum, the caregiver may move forward with signing the permission slip without seeking out the permission of the birth/adoptive parent, guardian or prior caretaker. If an activity involves travel outside of the county or state, the caregiver may grant permission but must notify the case worker, case planner, or case manager prior to the event occurring. If the school activity involves travel outside of the country, the local department of social services commissioner or designee must be notified prior to the event occurring and must consent.

The caregiver must apply the reasonable and prudent parent standard when determining participation in the activity, including but not limited to, assessing the potential risk for injury from the activity, ability to comply with the rules set forth by the schools as it pertains to medical restrictions, understand the child's physical and/or cognitive ability, and confirm that participation in such activity does not conflict with any mandatory court appearance, court ordered visitation, or violate the child's safety plan. Caregivers should refer to Attachment B: Applying the Reasonable and Prudent Parent Standard: Caregiver Considerations when determining whether a child may participate in an activity. Additionally, if appropriate, the birth/adoptive parent, guardian or prior caretaker, and child (if age and developmentally appropriate), should be engaged prior to making a decision.

Is a caregiver allowed to enroll and sign permission slips for participation in a sport or team activity (e.g., dance, cheerleading, drama club) outside of the school?

The first consideration is who is authorized to enroll or sign permission slips as established by the organization that is operating or overseeing the sport or team activity. If allowed by the rules of the particular activity, a caregiver may enroll and sign permission slips for a child to participate in an activity outside of the school.

When determining whether to allow the child to participate in the activity, the caregiver must apply the reasonable and prudent parent standard when determining participation in the activity, including but not limited to, assessing the potential risk for injury from the activity, ability to comply with the rules set forth by the activity as it pertains to medical restrictions, understand the child's physical and/or cognitive ability, and confirm that participation in such activity does not conflict with any mandatory court appearance, court ordered visitation, or violate the child's safety plan. Additionally, the caregiver should, where appropriate, engage the birth/adoptive parent, guardian or prior caretaker and child (if age appropriate) in determining the child's participation in the activity. When making a decision, all should consider how participation in this activity will continue should the child is returned to the birth/adoptive parent, guardian or prior caretaker.

Caregivers should refer to 15-OCFS-ADM-21, Attachment B: *Applying the Reasonable and Prudent Parent Standard: Caregiver Considerations* when determining whether a child may participate in an activity.

Is a caregiver allowed to permit a child to travel with their team for sports or other activities (e.g., dance, cheerleading, theatre)?

Prior to consenting to such travel, the caregiver must apply the reasonable and prudent parent standard, including, where appropriate, engaging the birth/adoptive parent, guardian or relative caretaker and child (if age appropriate) in determining the child's participation in the activity. For travel outside of the county or state, the case worker, case planner, or case manager must be notified prior to the event occurring. If the activity involves travel outside of the country, the caregiver should confirm that such travel does not conflict with court orders and consider the child's medical needs and behavioral history. In addition, the local department of social services commissioner or designee must be notified prior to the event occurring and consent to such travel.

For travel outside of the country, caregivers should consider if the child has relatives in the country of travel as well as any potential risks pertaining to child abduction. Caregivers are encouraged to refer to the U.S. Department of State International Parent Child Abduction website for more information:

<http://travel.state.gov/content/childabduction/english/preventing/tips.html>

Attachment C

Any concerns regarding travel outside of the country should be discussed with the case worker, case planner, case manager and, as appropriate, the local department of social services commissioner or voluntary agency executive director.

Is a child in foster care allowed to travel out of county, state, and/or country with a caregiver?

The caregiver must apply the reasonable and prudent parent standard for travel out of county, state and/or country with the child. This includes, where appropriate, engaging the birth/adoptive parent, guardian or prior caretaker and child (if age appropriate) in determining the child's ability to travel. The caregiver should consider at minimum the length of time in which the child has been with the caregiver/family, the child's comfort in traveling with the caregiver/family, and if the travel will conflict with any mandatory court appearances and/or court ordered visitations. For travel outside of the county or state, the case worker, case planner, case manager must be notified prior to the event occurring. If the activity involves travel outside of the country, the caregiver should confirm that such travel does not conflict with court orders and consider the child's medical needs and behavioral history. In addition, the local department of social services commissioner or designee must be notified prior to the event occurring and consent to such travel.

For travel outside of the country, caregivers should consider if the child has relatives in the country of travel and any potential risks pertaining to child abduction. Caregivers are encouraged to refer to the U.S. Department of State International Parent Child Abduction website <http://travel.state.gov/content/childabduction/english/preventing/tips.html>. Any concerns regarding travel outside of the country should be discussed with the case worker, case planner, case manager and, as appropriate, the local department of social services commissioner or voluntary agency executive director.

How are the costs associated with various activities to be paid?

The rate received by the foster boarding home or congregate care facility is expected to cover most of the expenses involved with the care of the child, including most routine activity expenses. Some unusual costs may be allowable as special payments subject to the approval of the applicable LDSS.⁵ For these more expensive activities, foster parents should work with their LDSS.

Are background checks/clearances necessary in order for a child to attend a party (e.g., birthday, graduation), visit with a friend, or stay overnight at a friend's house?

Background checks/clearances are not legally necessary in order for the child to attend a party, visit with a friend, or stay overnight at a friend's house. SCR clearances under Social Services Law (SSL) §424-a and criminal history checks under SSL §378-a are not authorized for these

⁵ 18 NYCRR 427.3

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individuals. In all instances, the caregiver must apply the reasonable and prudent parent standard.

For older children in foster care under the age of 18 who seek to attend a party unsupervised by the caregiver, the caregiver should consider the child's age and maturity to determine if this is developmentally appropriate, as well as the child's history with responsible behavior. Additional factors to consider include who will be in attendance at the party and where the party will be located. The caregiver should have the contact information of the adult supervising the party.

For visiting with a friend, the caregiver should consider the child's age and maturity, the child's history with responsible behavior, whether the caregiver has met the child's friend, knowledge about the friend (e.g., the friend's positive or negative behavior), contact information for the friend (e.g., home address, cell phone number), and the location in which the child will be visiting the friend.

For an overnight stay at a friend's house, the caregiver should consider the child's age and maturity, the child's history with responsible behavior; the child's mental health history, including any triggers that may endanger the child or others in the host household; meeting in-person with the parents or other responsible adults of the family with whom the child will be staying overnight; determining any other individuals who will be in the home during the overnight stay and ascertaining, to the extent possible, that they will not endanger the child's safety; sharing all emergency contact information with the host family; and, knowing where the child will be sleeping.

Is a child in foster care allowed to access social media (e.g., Facebook, Twitter, Snapchat, Instagram)?

There is no legal right to access to social media, but it may be allowed on a case by case basis as discussed below.

The caregiver must apply the reasonable and prudent parent standard, including engaging, where appropriate, the birth/adoptive parent, guardian or prior caretaker, and child (if age appropriate), in determining the child's access to social media. The caregiver should consider the child's age and maturity, whether the activity is developmentally appropriate, the child's history with responsible behavior, the child's safety (e.g., whether the child is a victim of sex trafficking), if there is a court order or order of protection that limits who the child may interact with; monitoring the child's social media activity by limiting his or her use of social media to an open or public space, connecting with the child via the online platform, obtaining the child's user information (username and password) for his/her social media account(s); and teaching the child about safe Internet practices, such as not chatting or meeting with strangers and not sharing personal information online (e.g., Social Security number, address).

Is a child in foster care allowed to have a cell phone?

While there is no right of a child in foster care to a cell phone, there is also no prohibition against a foster child having one.

The caregiver must apply the reasonable and prudent parent standard in determining whether or not a child is allowed to have a cell phone, including, where appropriate, engaging the birth/adoptive parent, guardian or prior caretaker and child (if age appropriate). The caregiver should consider the age and maturity of the child, the child's history with responsible behavior, if developmentally appropriate, the child's safety (e.g., the child is a victim of sex trafficking), if the child travels a long distance to/from school, has a part time job, if there is a court order or order of protection that limits who the child may interact with, access to social media via the cell phone, and monitoring text messages.

Regulatory standards relating to the use of telephones by children in foster care are set forth in OCFS regulation 18 NYCRR 441.18(b).

Is a caregiver allowed to cut or style a child's hair or arrange for someone else to do so?

A hair style may have cultural significance for the child and/or the child's birth/adoptive parent, guardian prior caretaker or family. Understanding this, a caregiver should not cut or style, or consent to the cutting or styling, of a child's hair without the engagement, if appropriate, of the birth/adoptive parent, guardian or prior caretaker, or familiarity with the cultural norms of the child and/or the child's family. At the time of removal or when completing the initial Family Assessment and Services Plan (FASP), the case worker, case planner, case manager should obtain from the birth/adoptive parent, guardian or prior caretaker and child (if age appropriate) information as to how the child's hair should be cut, styled, and maintained. If the child is older and requests that his/her hair be cut or styled differently, the caretaker must apply the reasonable and prudent parent standard, including engaging, if appropriate, the birth/adoptive parent, guardian or prior caretaker, and considering the age and maturity of the child, whether the request is developmentally appropriate, whether there is a medical reason (e.g., lice), and the child's desire for changing the cut/style of his/her hair.

Can a caregiver determine the child's bedtime and curfew?

A caregiver must apply the reasonable and prudent parent standard when determining a child's bedtime and curfew. This includes considering the child's age and maturity, the child's history of responsible behavior (e.g., history of curfew violations), the child's safety (e.g., the child is a victim of sex trafficking), and, where appropriate, engaging the birth/adoptive parent, guardian or prior caretaker and child (if age appropriate) when determining the bedtime and/or curfew for a child.

Is a child in foster care allowed to stay with a babysitter?

A child in foster care is allowed to stay with a babysitter for a limited time under certain conditions. OCFS regulation, 18 NYCRR 443.3(b)(3) states that foster parents will never leave foster children under the age of 10 alone without competent adult supervision or foster children above that age except as might reasonably be done by a prudent parent in the case of his or her own children. Regardless of the child's age, the reasonable and prudent parent standard must be applied when selecting a babysitter. A caregiver should consider the age and development of the child; the child's mental health history, including any triggers that may endanger the child or others in the household; the child's comfort with the babysitter; the competence and maturity of the babysitter; and the babysitter's experience in caring for children.

A background check/clearance is not legally required for a babysitter. SSL §424-a does not authorize SCR screening, and SSL §378-a does not authorize a criminal history record check of a babysitter.

Is a child in foster care allowed to attend events without the caregiver's supervision?

A child in foster care is allowed to attend events without the caregiver's supervision. See the standard set forth above for foster parents stated in 18 NYCRR 443.3(b)(3). The adult providing supervision does not have to be the foster parent or caregiver. For all children, regardless of age, the reasonable and prudent parent standard must be applied to determine if participation in the event is appropriate.

When applying the reasonable and prudent parent standard, the caregiver should consider the age and maturity of the child, the child's history with responsible behavior, whether the activity is developmentally appropriate, the caregiver's familiarity with the child, verifying the contact information (e.g., cell phone number) for the adult who will be supervising the event, traveling with the child to the event to meet face-to-face the person(s) supervising/hosting the event, and knowing the location of the event. Additionally, the caregiver should provide to the child and the adult supervising the event his/her contact information in case of an emergency.

Is a child in foster care allowed to stay home alone in the foster home for a limited time?

OCFS regulation 18 NYCRR 443.3(b)(3) states that foster parents will never leave foster children under the age of 10 years without competent adult supervision or foster children above that age except as might reasonably be done by a prudent parent in the case of his or her own children. For a child 10 years of age or older, the caregiver must apply the reasonable and prudent parent standard to determine whether a child is allowed to stay home alone for a limited time. The caregiver should consider the age and maturity of the child, the child's history with responsible behavior, if developmentally appropriate, familiarity with the child, and the child's comfort with being home alone.

Is a child in foster care allowed to babysit?

A child in foster care may be allowed to babysit, but cannot be required to do so. In determining whether to allow a child in foster care to babysit, the caregiver should consider the age and maturity of the child, the child's history with responsible behavior, any behavioral issues that could put other children at risk of harm, whether it is developmentally appropriate, and the child's comfort with being a babysitter.

Is the child in foster care allowed to have his/her picture taken for the school yearbook, school and non-school sports team, other extracurricular activities (e.g., dance club, theatre)?

A child in foster care is allowed to have his/her picture for a school yearbook, school and non-school sports team, and other extracurricular activities, etc. as long as there is no indication that the child is in foster care.

Is a child in foster care allowed to go to overnight summer camp?

Permission for a child in foster care to participate in overnight summer camp must be granted by the applicable local department of social services commissioner or designee (18 NYCRR 431.13). Prior to seeking permission, caregivers are encouraged, where appropriate, to engage the birth/adoptive parent, guardian or prior caretaker, and child (if age appropriate) in determining whether a child should participate in overnight summer camp. Caregivers must apply the reasonable and prudent parent standard when considering overnight summer camp, including the child's interest in the overnight summer camp; the age and development of the child; the child's mental health history, including any triggers that may endanger the child or others at the camp; and the child's comfort with staying out overnight.

Is a child in foster care allowed to attend prom and post-prom activities?

In applying the reasonable and prudent parent standard, a determination can be made as to whether a child may go to the prom and participate in post-prom activities. The caregiver should consider the child's age and maturity, the child's history of responsible behavior (e.g., performance in school, returning home by curfew), and engage (where appropriate) the birth/adoptive parent, guardian or prior caretaker and child in the decision-making. If it is determined that the child is not allowed to attend the prom and/or post-prom activities, the reason for this determination should be explained to the child.

Reasonable costs associated with a prom (e.g., dress or tuxedo) should not serve as a barrier to the youth attending the prom. Caregivers should contact the child's case worker, case planner, case manager to discuss independent living or special payments available pursuant to OCFS regulation 18 NYCRR 427.3(c)(2) funds that may be available to support participation in the prom.

Can a child in foster care have a part-time job?

Having a part-time job is a normative experience for adolescents. OCFS regulation, 18 NYCRR 441.10 recognizes the importance and value of work experiences for youth in foster care as they offer opportunities for beneficial skill development. Caregivers must apply the reasonable and prudent parent standard when considering whether a child is ready for a part-time job. Considerations should include the age and maturity of the child, the child's history of responsible behavior, the type of job, how the child will travel to/from the job, the number of hours and time in which the child shall work, how the job may impact the child's ability to perform academically, and the types of skills the child will develop from a part time job.

Is a child allowed to obtain a driver's license?

New York State law states that once a child turns the age of 16, he or she is eligible to pursue a driver's license. For those children in foster care who are under the age of 18, a parent or legal guardian must sign the consent section of the driver's license application. When determining whether or not a child who is age 16 or older should be able to obtain a driver's license, a caregiver must apply the reasonable and prudent parent standard. The caregiver should consider the maturity of the child, the child's history with responsible behavior, familiarity with the child, and insurance coverage for the child (not offered by the Office of Children and Family Services). Additionally, the caregiver should engage the child and, if appropriate, the birth/adoptive parent, guardian or prior caretaker in determining whether or not the child has permission to pursue a license.

Is a child in foster care allowed to travel alone via public transportation?

A caregiver may grant a child in foster care permission to travel alone via public transportation. Prior to this determination, the caregiver should consider the age and maturity of the child, if it is developmentally appropriate, the child's history with responsible behavior, familiarity with the child, the distance the child is traveling, the reason for which the child is traveling, and the child's comfort with traveling alone via public transportation. Additionally, the caregiver should engage the child and, if appropriate, the birth/adoptive parent, guardian or prior caretaker when determining whether or not to permit a child to travel alone on public transportation.

Is a child in foster care allowed to ride in a car without the caregiver to/from school and other activities (e.g., travel home after sports practice)?

A caregiver may permit a child to ride in a car (including a friend's car) without the caregiver to/from school and other activities. The caregiver must apply the reasonable and prudent parent standard when determining whether or not to allow a child to ride in a friend's car. The caregiver should consider the age and maturity of the child, the child's history with responsible behavior, if developmentally appropriate, familiarity with the child, familiarity with the child's friend, and the distance that is being traveled. Additionally, the caregiver should engage (where appropriate)

the birth/adoptive parent, guardian or prior caretaker when determining whether or not to permit a child to ride in a friend's car to/from school and other activities.

Is a caregiver allowed to consent to piercings and tattoos?

A caregiver may not provide consent for piercings or tattoos of a child in foster care. Public Health Law §460-a requires that a person be age 18 years or older in order to obtain piercings and tattoos. For those under the age of 18 years, proof of consent from a parent or legal guardian must be provided.

Is a child in foster care allowed to go hunting?

Environmental Conservation Law §§ 11-701 and 11-929 set forth the standards for the age at which a child may hunt, what weapons may be used, where consents are required, and the need for adult supervision. Even if the child in foster care is legally authorized to hunt, where appropriate, the birth/adoptive parent, guardian or prior caretaker should be consulted before he or she is given permission to do so. In addition, the caregiver must obtain prior permission from the local department of social services commissioner or designee before allowing a foster child in the caregiver's care to hunt. Additionally, the caregiver must apply the reasonable and prudent parent standard in determining whether to allow a child to participate in hunting; this includes considering the child's age and maturity, whether the activity is developmentally appropriate, the child's history with responsible behavior, the child's history with hunting, supervision of the child while hunting (if the child is under the age of 16), and familiarity with the child.

Is a child in foster care allowed to operate an ATV?

Vehicle and Traffic Law § 2410 is very specific and limiting regarding the operation of ATVs by children under the age of 18. Before making any determination regarding the foster child's operation of an ATV, Vehicle and Traffic Law § 2410 must be consulted. It may also be advisable for the caregiver to confirm his or her understanding of the law with local law enforcement and document law enforcement's response. If it is determined that the age and qualifications of the child and the site to be used meets the legal specifications, the caregiver must be certain that all necessary safety training is completed, the child has the appropriate protective gear, and there is appropriate supervision by a qualified adult during the child's operation of the ATV.

In applying the reasonable and prudent parent standard to a decision regarding the child's operation of an ATV in accordance with Vehicle and Traffic Law, the following characteristics of the child must be considered: the child's age and maturity, whether the activity is developmentally appropriate, the child's history with responsible behavior, and the child's experience with operating an ATV. The caregiver should engage (where appropriate) the child's birth or adoptive parent or guardian, and the case worker, case planner, or case manager, in making this decision.