

Candidacy for Foster Care Questions and Answers

1. Question: Who is a candidate?

Answer: A candidate for foster care is a child who is at serious or imminent risk of removal from his or her home and placement in foster care, as evidenced by the LDSS pursuing the child removal from the home through a court proceeding or making reasonable efforts to prevent the removal. Absent effective preventive services, foster care placement in the planned arrangement for the child.

2. Question: What are the acceptable methods of documenting that a child is a candidate for foster care?

Answer: Where the basis for the determination of candidacy is the child's case plan/case record, such determination must address: that the child is in serious or imminent danger of removal, including documentation of the facts of the case that justify that determination, the specific services offered or provided to prevent removal, that placement into foster care will be the plan if the services offered or provided are not effective, and the involvement of the parent or guardian in case planning.

Where the initial basis for determination that the child is a candidate for foster care is based on a court petition, in addition to maintaining a complete and dated executed copy of the court petition, there is the need to document the specific services offered or provided to prevent removal.

3. Question: Is there a checklist that can be used to determine if a child is a candidate for foster care?

Answer: The [OCFS-4777, Federal Foster Care Candidacy Determination Form](#) (02/2018), is a checklist that helps in addressing the standards for the initial determination and the six-month redetermination of eligibility of a candidate for foster care. A completed OCFS-4777 must be completed for every tracked child in a preventive or protective case. This is posted on the OCFS website and may be found by searching "OCFS-4777."

Please note: a completed OCFS-4777 checklist is not by itself adequate documentation to support a determination of eligibility for a candidate for foster care.

4. Question: Is there any guidance on candidacy?

Answer: OCFS Local Commissioner Memorandum 18-OCFS-LCM-04, [Federal Foster Care Candidacy Requirements](#), issued February 28, 2018. This is posted on the OCFS website under "Policy Directives."

5. Question: Where and how do I enter codes in CONNECTIONS to identify whether child is candidate for foster care?

Answer: You need to go to the CONNECTIONS Activities Window and use the following codes:

Use code S400 for the Initial Candidacy Determination to reflect either that the child is determined to be candidate for foster care or that the child is not a candidate for foster care. This needs to be done for every tracked child with a program choice of protective or preventive.

Candidacy for Foster Care Questions and Answers

The code also includes an event date which is the date the determination of eligibility or ineligibility for candidacy is made. This is key for the ability to determine when the State and LDSS can consider a case eligible as a candidate case for federal claiming purposes.

If the case is determined as a candidate case, the LDSS must select the method of documentation used for the determination, whether based on the case record or upon a court petition or order. If the case is not eligible for candidacy, the LDSS enters NA here.

See pages 6 and 7 of Local Commissioner Memorandum 18-OCFS-LCM-04, [Federal Foster Care Candidacy Requirements](#), issued February 28, 2018

Use code S410 for the Six-Month Candidacy Redetermination to reflect that the child is determined to continue to be a candidate for foster care or that the child is no longer determined to be a candidate for foster care. It reflects a determination whether the child continues or does not continue to be a candidate for foster care.

Again, the code includes an event date for the determination which must be within six months of the prior determination.

As with the initial determination, if the case is determined to continue to be a candidacy case, the LDSS needs to identify the method of documentation used for the determination, whether case record, or court petition or order. If the case is no longer eligible, the LDSS would enter NA. The LDSS must then enter the code S420, indicating the date the candidacy ended.

Use code S420 for Candidacy Ended to reflect that the child is no longer a candidate for foster care. This occurs at any time during the life of the case when the child is removed from his or her home, when the LDSS is no longer able to determine that the child is in imminent or serious risk of removal. Would include, for example, when the court petition is withdrawn or dismissed.

Please note: these activity codes do not include hard edits. For each entry, be sure they are accurate, complete, and up to date. If a child enters foster care, the system will not automatically cut off the case being labeled as a candidacy case. The LDSS will need to go into CONNECTIONS and amend the activity code to "Candidacy Ended."

6. Question: I just opened a preventive services case after the release of the OCFS release (18-OCFS-LCM-04), when am I supposed to do the initial eligibility determining for these children?

Answer: The LDSS must begin immediately doing initial eligibility determinations for each tracked child in an open preventive or protective case using code S400 for the Initial Candidacy Determination because this is the first instance the LDSS is looking at the case using new federal and state guidance for candidacy.

Question: When must I make a candidacy determination for a preventive services case or protective services case that was opened before OCFS issued 18-OCFS-LCM-04?

The initial determination of candidacy must be made at the point of the LDSS re-determination of preventive services or child protective services eligibility.

7. Question: When do I do a redetermination on Candidacy?

Candidacy for Foster Care Questions and Answers

Answer: The LDSS must do a redetermination six (6) months from the date of the preceding determination for candidacy.

Question: Why should I be concerned with these codes? What value do they have?

Answer: First, the timely and complete entry of the codes relates to state and LDSS reimbursement for administrative costs. These codes will be used to identify cases determined to be candidacy eligible by the LDSS and be factored into New York's claiming process to the federal government to enable New York and LDSSs to draw down Title IV-E reimbursement for administrative costs associated with candidates for foster care.

Second: monitoring. The codes will enable LDSSs, the state and the federal government to identify cases that need to be reviewed for compliance with federal candidacy standards. Additionally, it supports quality assurance at the LDSS level and the state levels.

8. Question: It was suggested that LDSS keep a separate Candidacy for Foster Care eligibility folder, what should be included in the folder?

Answer: As with other Title IV-E eligibility determinations like foster care, an LDSS needs to keep a separate record of its determination that a case is a candidate. It should include

- the OCFS-4777 checklist form, and
- where the basis for the initial candidacy determination is the filing of a court petition, a copy of the complete and dated executed court petition or order and either the printout of the FASP or progress notes that reference the services that were offered or provided to prevent removal or a notation in the file where such documents may be found; or
- where the basis for the initial determination of candidacy is the child's case plan/case record, a copy of the progress note or FASP, or a notation in the file as to where in the progress notes and/or FASP the LDSS documented that the child was at serious or imminent risk of removal and placement in foster care, including the facts upon which the LDSS based that conclusion, that placement into foster care was the plan should preventive services are not effective, the services that were offered or provided to prevent removal and the efforts made by the LDSS or VA to involve the parent or guardian in the development of the child's service plan.

In regard to the six-month redetermination of eligibility for candidacy: in addition to the OCFS-4777 checklist form, you need the same documentation noted above that is required with the initial determination *and, where the basis for the determination is a court petition*, you need either a copy of the FASP or the progress notes; or a notation in the file as to where in the FASP or in the progress notes the LDSS has documented that the child is in serious or imminent risk of removal, including a notation of the facts upon which the LDSS based its conclusion.

In regard to documentation recorded in CONNECTIONS: this can be done by the LDSS printing out those documents that support its determination and placing them in the file, or by creating a notation in the file or the OCFS-4777 of the date of the FASP and/or progress note so that upon monitoring of the case at the LDSS level, state level or federal level they may easily be pulled and reviewed for compliance.

Candidacy for Foster Care Questions and Answers

- 9. Question: Can a child be considered a candidate for foster care where the LDSS has no formal involvement with the family? If is a child being “at risk” of removal adequate for a finding of eligibility for candidacy for foster care?**

Answer: No.

A child cannot be considered a candidate for foster care when the LDSS has no formal involvement with the child, nor simply because the child has been described as being “at risk” due to circumstances such as social/interpersonal problems or a dysfunctional home environment; and not solely because the LDSS is involved with the child and his or her family. Individualized determinations that a child is at serious or imminent risk of removal must be completed. Such determinations must be made and documented on a case by case basis.

- 10. Question: Who can I contact if I have any candidacy questions?**

Answer: OCFS has established a candidacy mailbox for your questions related to candidacy. The link to the mailbox is: [ocfs.sm.TitleIV-E.CandidacyforFosterCare](https://ocfs.sm>TitleIV-E.CandidacyforFosterCare)

- 11. Question: Does the OCFS-4777 form have to be completed for every child that is tracked on a preventive services cases or does the form only have to be completed for those children on preventive services cases that are identified as being in serious or imminent risk of placement?**

Answer: It must be done for every child who is getting preventive or protective services.

- 12. Question: When do I start using the OCFS-4777 and entering information into the Connections Activities Window?**

Answer: We are suggesting that you begin the initial determinations now and yes, you can do a redetermination earlier than six months so that re-determinations can align with the six-month FASP. Just remember, if at any point in the case the child is no longer a candidate for foster care, then you should go in to the “Activities” window and end date it.

- 13. Question: Should that first FASP include all the documentation that *indicated’ that absent effective preventive services, foster care is the planned arrangement?***

Answer: Yes, the initial FASP or progress notes should clearly document the circumstances as to why the worker feels the child is a candidate for foster, and what services are being offered or provided.

- 14. Question: In court ordered Preventive Services cases, do you need both the petition and the Court Order for documentation?**

Answer: The petition *or* the order is needed; not both. The petition is preferred.

- 15. Question: Does the worker complete the OCFS-4777 based on their FASP or case documentation?**

Candidacy for Foster Care Questions and Answers

Answer: Yes, the OCFS-4777 should be based on the FASP/progress note documentation or court petition/order.

16. Question: If a case is coded that it meets the criteria for candidacy, and that is reflected in the FASP; then if circumstances change and the child is no longer a candidate, does a Plan Amendment need to be completed to reflect that?

Answer: No, the FASP/Plan Amendment is not tied to candidacy. You would just need to update the "Activities" window with S420 and the date the child was no longer a candidate for foster care.

17. Question: Will the random moment survey questions change?

Answer: We are going to be incorporating candidacy into the random moment survey, and will be working with the relevant districts on this new category.

18. Question: How is 'imminent risk of placement' defined?

Answer: There is no federal definition of imminent risk for candidacy purposes. The agency must set forth a conclusion that the child is in imminent or serious risk of removal and must state the facts upon which the agency based the conclusion. Merely stating that the case complies with 18 NYCRR 430.9 is not adequate documentation.

19. Question: Does the following statement apply to ACS-ADVPO-type cases and/or ACS' Court-Ordered Investigations (COI) due to custody/visitation petitions? "A child also cannot be considered a candidate for foster care when the LDSS has no formal involvement with the child or simply because he or she has been described as being "at risk" due to circumstances such as social/interpersonal problems or a dysfunctional home environment; and not solely because the LDSS is involved with the child and his or her family."

Answer: ADVPO cases that were determined to be eligible for mandated or non-mandated preventive services must have a DSS 4777 completed. Whether they are eligible will be based on the assessment of the facts of the case and whether it meets federal candidacy documentation requirements set forth in 18-OCFS-LCM-04.

Regarding court ordered preventive services, that implies that a petition has been filed in Family Court and the case would need to be assessed using the criteria for documentation based on the filing of a court petition. Regarding a court ordered investigation, the order in and of itself would not result in a determination of eligibility for candidacy.

20. Question: A child is home on a trial discharge, can they be considered a candidate for foster care.

Answer: No, federal guidance on this subject is set forth in the Child Welfare Policy Manual section 8.1D. While the federal guidance states that a child on trial discharge may satisfy federal candidacy for foster care standards, ACF states that a child may not be simultaneously both in

Candidacy for Foster Care Questions and Answers

foster care and a candidate for foster care. Because children on trial discharge are factored into the state's foster care methodology, they cannot also be counted as candidates for foster care.

21. Question: Does the court petition have to expressly state that the county is seeking removal of the child?

Answer: No, it does not need to specifically state that the county is seeking removal.

22. Question: Can court-ordered supervision alone satisfy the requirement for candidacy eligibility that services be offered or provided to the child or family?

Answer: No, supervision in and of itself is not sufficient to satisfy candidacy for foster care requirements. If the supervision or case management of the family is related to overseeing the provision of services being provided, then it would be eligible based on the provision of the services. The services that are provided must be documented for candidacy eligibility purposes.

23. Question: If a child has been finally discharged from foster care and the LDSS no longer has legal custody of the child, can the child now be considered for candidacy of foster care?

Answer: It would be unlikely in most cases that at the time of final discharge the child would be in imminent or serious risk of re-entry into foster care. However, if at any point circumstances change and the child is in imminent or serious risk of removal and replacement into foster care, a new initial candidacy eligibility determination would have to be made and documented satisfying the requirements for candidacy.

24. Question: How is the 1017 documented?

Answer: The status of a 1017 direct placement could be documented by a copy of the court order granting direct legal custody to the relative or other suitable person.

25. Question: If there is a safety net (grandmother, aunt, family friend) for the children who would be willing to take the children if the parents are unable to keep them, are they at imminent risk of placement into foster care?

Answer: Possibly. The issue is whether the facts of the case support a finding that the child is in serious or imminent risk of placement into foster care but for effective preventive services.

26. Question: Receiving preventive services alone is not an indicator; it is risk of foster care, correct?

Answer: Yes. The sole fact that a child is receiving preventive/protective services, in and of itself, does not meet the federal definition of candidacy. The child must satisfy the federal eligibility criteria for candidacy for foster care, as set forth in OCFS-4777 and 18-OCFS-LCM-04, which includes that the child must be in "imminent or serious" risk of foster care placement and the LDSS/ACS is either pursuing the child's removal from the home or providing/offering services to prevent the removal.

27. Question: Is a court petition in and of itself is adequate documentation?

Answer: No, the court petition, in and of itself, is not sufficient. You must also document in the

Candidacy for Foster Care Questions and Answers

FASP/progress notes all the services offered or provided to prevent the removal.

28. Question: Should the separate candidacy case file be a hard copy or can it be a digital copy? A separate tab or plastic folder/sheet protector or outside the file? Should it be physically outside of the case file or within the case file but in a separate tab?

Answer: OCFS's recommendation is for the LDSS to maintain a hard copy file as done for Title IV-E foster care eligibility outside of the general case record.

29. Question: Does the OCFS-4777 have to be completed for every child on the case?

Answer: The OCFS-4777 must be completed for every child who is getting preventive or protective services, including children who have been removed and placed in non-LDSS custody through Family Court.

30. Question: If we are working with a family on neglect issues or even PINS issues and initially, the issues are not of imminent or serious risk of placement, but at a later date it become imminent or serious risk of removal, do we immediately do a redetermination of candidacy?

Answer: If at a date following a determination that a child is not a candidate, circumstances change whereby the child is now in serious or imminent risk of placement into foster care, a new initial determination of eligibility should be completed.

31. Question: Is the determination of candidacy only required when there are prevention services being provided? If there is just a LDSS/ACS caseworker does this need to be done?

Answer: The determination must be completed for every child getting preventive/protective services. Having a caseworker is not a service.

32. Question. So it seems that a form should be completed on all preventive case openings for an eligibility determination?

Answer: Yes, this is correct.

33. Question: If the answer to the first question on the OCFS 4777 form is "yes," does your documentation to support it (notes) need to use the term "serious or imminent risk" specifically?

Answer: It is strongly recommended that the term "serious or imminent risk" of placement be used. Equally important is that the basis (facts) for arriving at that conclusion be delineated in the progress notes as the statement alone does not sufficiently satisfy the federal requirement. You need to document the basis for the conclusion that the child is in serious or imminent risk of placement into foster care.

34. Question: Doesn't the OCFS-4777 require that the questions in both Sections II and III be completed?

Answer: No, you complete Section II, if the basis for the candidacy determination is the case record; or you complete Section III, if the basis for the candidacy determination is that a court petition was filed in Family Court.

Candidacy for Foster Care Questions and Answers

35. Question: How about cases that pre-date 2/28/18, where a petition was filed but there is no reasonable efforts language documented within the petition, but the case otherwise meets the definition of a candidacy case? In these cases, can we use Section II instead of Section III?

Answer: For candidacy cases, there is no requirement that the petition include the reasonable efforts language if the case otherwise meets the candidacy requirements as outline on the OCFS-4777. If the LDSS has filed a petition with the court, then Section III of the form should be completed. What must be documented are the services offered or provided to prevent placement into foster care.

36. Question: How does the LDSS answer to an immediate Article 3 petition due to a runaway with no prior services?

Answer: In order to be eligible for candidacy based on a court petition, the LDSS/ACS would have to be able to document services offered or provided to the child or the child's family to prevent placement into foster care. If no services were offered or provided, the case is not eligible for candidacy.

37. Question: What if the family has no viable resource while the parent addresses imminent issue like mental health or drug matter?

Answer: The absence of a viable placement resource would not directly impact candidacy eligibility.

38. Question: SSL 358-a covers a voluntary placement agreement and the necessity for filing an approval of the instrument. Why would we do candidacy on those children if they are already in placement?

Answer: Correct, in most cases involving a 358-a petition, the case will not be eligible for candidacy. The status could change following the 358-a hearing.

39. Question: The requirement of evidence of the parent's involvement with the development of the FASP would not typically be in existence for a 30 initial FASP. Is it correct that documentation in the notes/record is sufficient?

Answer: Yes, documentation in the child's progress notes is an acceptable means of addressing the parent's involvement.

40. Question: If a child's candidacy ends and later, the child is again at risk of placement, should the LDSS do an initial or a redetermination of candidacy?

Answer: An initial determination of candidacy should be done if the child is again in "imminent or serious" risk of placement using the OCFS-4777.

41. Question: Is the following sequence correct? We do the S400 when we determine the child is a candidate; child goes into foster care we enter the S420 to end date the child's candidacy; child is discharged and goes home to parent, now we put in the S400 again if the child is once again a candidate.

Answer: A determination of candidacy must be done for the child prior to entering the Activity

Candidacy for Foster Care Questions and Answers

code S400 so the OCFS-4777 must be completed for the child. If the child goes into foster care, you are correct; the child is no longer a candidate so Activity code S420 must be entered in the Activities window of CONNECTIONS. Should the child be discharged to the custody of the parent and the LDSS/ACS is continuing to provide services to child, an initial determination of candidacy (completion of the OCFS-4777) must once again be done for the child. If after completing the determination, you determine that the child meets the federal definition for candidacy then the S400 must be entered.

42. Question: If a case is determined to be a candidacy case and the children go into foster care at some point between redetermination timeframes, candidacy ends at this point correct? Do we make an activity entry of S420 at this point or do we wait for the six-month redetermination and a retroactive S420 entry?

Answer: The entry of the S420 must be done at the point that the children goes into foster care. This is very important; otherwise, the case will inappropriately continue to draw federal funding.

43. Question. Do we need to do a Plan Amendment if the child's status changes before the 6-month mark?

Answer: A plan amendment is not mandated solely because of the loss of eligibility for candidacy. However, the events that resulted in the loss of candidacy eligibility may require a plan amendment, for example, because preventive services have ended (see 18NYCRR 428.7(b)(2)).

44. Question: Where is that Activities tab?

Answer: It is in CONNECTIONS. Reference the tip sheet on the OCFS website.

45. Question: What is a timely timeframe for completing the Initial and the redeterminations/systems entries?

Answer: It is suggested that you begin the initial determinations now. The LDSS may do a redetermination earlier than the six-months so that the redetermination aligns with the six-month FASP. Entries in the Activities window of CONNECTIONS should be done consistently with these determinations.

46: Question: The LDSS may align cases (pre 2/28/18) redeterminations with the reassessment FASP as well, correct?

Answer: Yes. The LDSS may do a redetermination earlier than the six-months so that the redetermination aligns with the six-month FASP. Entries in the Activities window of CONNECTIONS should be done consistently with these determinations.

47. Question: If the determination is that the child is "not eligible," then does the LDSS/ACS have to choose non-mandated services as the program choice?

Answer: No. The determination that is being done is solely to see if the child meets the definition of candidacy for federal funding. Whether the case satisfies the state eligibility standards for mandated versus non-mandated preventive services is a separate determination.

Candidacy for Foster Care Questions and Answers

48. Question: If an eligible child turns age 18 within two or five months of the redetermination, when should the entry occur, at the 6-month timeline?

Answer: Entries in the Activities window of CONNECTIONS should be done at the time the determination/redetermination is made. If the child is found to be ineligible at any point, at the time that this determination is made, an entry in the Activities window of CONNECTIONS should be made to end the candidacy.

49. Question: How do we handle youth under probation supervision where Probation completes the YASI in lieu of the FASP?

Answer: Whether the YASI or FASP is used, in order for the case to be eligible for candidacy based on the case record, the LDSS/ACS will have to satisfy the documentation requirements set forth in 18-OCFS-LCM-04.

50. Question: Could the fact that child is not a candidate be based on the case record?

Answer: Yes, if the case record documents that the child no longer meets the federal definition of candidacy. Please see 18-OCFS-LCM-04 for details.

51. Question: What happens if the case is granted an ACD?

Answer: In order for the case to continue to be considered as eligible for candidacy, the LDSS/ACS would have to make a determination and support that determination in the case record that the child remains in serious or imminent risk of placement.

52. Question: If the child is determined not to be candidate for foster care placement, what would be the program choice?

Answer: The case should be coded as ineligible in the Activities window of CONNECTIONS and the administrative costs for such a case would be funded through sources other than Title IV-E. The program choice can be mandated or non-mandated preventive based on the case circumstances.

53. Question: Is there a timeframe for engaging the family in preventive services after which the LDSS cannot consider the child at risk if the family did not yet comply and the LDSS did not seek removal?

Answer: There is no specific legal timeframe for when the family must apply. Once the LDSS/ACS receives an application for services, it must make a determination within 30 days of the date of the application per 18 NYCRR 404.1(d)(1)(i).

54. Question: So, we cannot assign a LDSS/ACS caseworker to assist with community services connections without a risk for foster care placement?

Answer: The LDSS/ACS should continue to assign caseworkers as has always been done. The risk of foster care placement discussed relates to "imminent/serious" risk of placement and is regarding the determination of candidacy as outlined in 18-OCFS-LCM-04.

55. Question: Can receipt of SSI preclude a child from being a considered a candidate for foster care?

Candidacy for Foster Care Questions and Answers

Answer: No, as long as the LDSS/ACS is able to document: a) the child remains in serious or imminent risk of placement into foster care; b) the services offered or provided and the involvement of the parent or legal guardian in the development of the child's service plan

56. Question: Will the webinar conducted in May be available for viewing after the session?

Answer: Yes. This webinar was recorded and after editing, it will be posted in HSLC.

57. Question: If we have a case that was open as a result of a court petition filed prior to the release of the LCM on 2/28/18, and we are just now doing the initial candidacy eligibility determination many months after the filing of the petition, at this point in the case do we base our determination using the criterial for the initial eligibility for candidacy where a petition is filed or do we apply the six (6) month redetermination criteria based on current case circumstances?

Answer: In such a case, considering the passage of time, you should apply the criteria for the 6-month redetermination, basing it on current circumstances.