



# Office of Children and Family Services

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## Administrative Directive

<b>Transmittal:</b>	20-OCFS-ADM-20
<b>To:</b>	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
<b>Issuing Division/Office:</b>	Child Welfare and Community Services
<b>Date:</b>	November 6, 2020
<b>Subject:</b>	<b>Elimination of Tuberculosis Testing (TB) Requirement for Prospective Adoptive Parents, Foster Boarding Homes (FBHs) and Child Care Staff Applicants</b>
<b>Suggested Distribution:</b>	Directors of Social Services Voluntary Agency Executive Directors Child Welfare Supervisors Foster Care Supervisors Adoption Supervisors
<b>Contact Person(s):</b>	See section VI.
<b>Attachments:</b>	<a href="#"><u>Foster/Adoptive Applicant Medical Report (OCFS-5183D)</u></a>

### Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
18-OCFS-ADM-07		18 NYCRR 421.16(c)(2), 442.18(e)(2), 443.2(b)(16), 448.3(c)(3),			
19-OCFS-ADM-07,					
19-OCFS-ADM-12					

### I. Purpose

The purpose of this Administrative Directive (ADM) is to notify local departments of social services (LDSSs) and voluntary authorized agencies (VAs) of the changes to the New York

State Office of Children and Family Services (OCFS) regulations regarding tuberculosis (TB) testing. The changes to the regulations have eliminated the requirement for prospective foster or adoptive parent applicants and individuals seeking employment in specific OCFS-licensed congregate care settings to be tested for TB as a condition of certification/approval or employment. These regulatory changes also require that the medical professional completing the medical evaluations on these individuals include a statement regarding any mental health condition an applicant may have and if the presence of any such physical or mental condition poses a risk to the health and safety of children in foster care.

## II. Background

Furthering OCFS's commitment to reduce unnecessary barriers to the process of certifying/approving prospective foster or adoptive parent applicants and hiring individuals for employment in specific OCFS-licensed congregate care settings (group homes or institutions), amendments to 18 NYCRR 421.16(c)(2), 442.18(e)(2), 443.2(b)(16) and 448.3(c)(3) were made that eliminated the requirement to conduct TB testing as a condition of certification/approval or employment. There was no requirement for employees in agency-operated boarding homes (AOBHs) to be tested for TB; therefore, no changes were made to 18 NYCRR Part 447. The regulatory changes were filed on an emergency basis and were effective as of May 27, 2020. Upon completion of the public comment period, the regulations were adopted and made final on September 16, 2020.

## III. Program Implications

The amendments made to OCFS regulations are listed in this section.

### Requirements for Initial Certification/Approval or Reauthorization of FBHs

18 NYCRR 443.2(b)(16) was amended to remove existing regulatory provisions that require TB screening and/or tuberculin testing, including chest X-rays, as a requirement for the foster parent applicant during the initial certification/approval of an FBH and/or the reauthorization of an FBH. The amendments also added the requirement for the medical professional completing the OCFS-5183D form, *Foster/Adoptive Applicant Medical Report*, to state whether any mental condition is present in the applicant and/or household members that might affect the proper care of a foster child or that the presence of any identified physical or mental affliction does not pose a risk to the health and safety of children. The [OCFS-5183D](#) form was revised to align with these regulatory changes.

All applicants seeking initial certification or approval as a foster parent must

- submit to the certifying or approving LDSS or VA a completed [OCFS-5183D](#) form, which includes documentation of a physical examination conducted not more than one year preceding the date of the application for certification or approval as a foster parent is submitted to the certifying or approving LDSS or VA. The OCFS-5183D form must be completed by a physician, physician assistant, nurse practitioner or other licensed and qualified health care practitioner, as appropriate, and include a statement regarding the members of the foster family's general health and the absence of communicable disease, infection or illness, or any physical or mental condition that might affect the proper care of a child in foster

care, or that presence of any identified affliction does not pose a risk to the health and safety of children.

- If the applicant and the applicant's family have completed an OCFS-5183D form within the last year for an adoption study, the submission of that OCFS-5183D form will satisfy this requirement.

All certified/approved FBHs seeking reauthorization must

- submit a completed and satisfactory [OCFS-5183D](#) form, *Foster/Adoptive Applicant Medical Report*, every two years for each foster parent and household member.<sup>1</sup>

Receipt and review of the OCFS-5183D form in satisfaction of the above requirements must be documented in the FAD module in CONNECTIONS.

#### Requirements for Completion of an Adoption Home Study

18 NYCRR 421.16(c)(2) was amended to remove existing regulatory provisions that require TB screening and/or tuberculin testing, including chest X-rays, as a requirement for approval of the applicant as an approved adoptive parent. The amendments also added the requirement for the medical professional completing the OCFS-5183D to state whether any mental condition is present in the applicant and/or household members that might affect the proper care of an adopted child, or that the presence of any identified physical or mental affliction does not pose a risk to the health and safety of an adopted child. The OCFS-5183D form, *Foster/Adoptive Applicant Medical Report*, has been revised to align with these regulatory changes.

All adoptive applicants must

- submit a completed [OCFS-5183D](#) form, which includes documentation of a physical examination conducted not more than one year preceding the date of the application for approval as an adoptive parent. The OCFS-5183D form must be completed by a physician, physician assistant, nurse practitioner or other licensed and qualified health care practitioner, as appropriate, regarding the members of the household's general health and the absence of communicable disease, infection or illness, or any physical or mental condition(s) that might affect the care of a child who is adopted, or that presence of any identified affliction does not pose a risk to the health and safety of a child who is adopted.
- If the adoptive applicant is or has been a foster parent, and the LDSS or VA that certified or approved the foster parent has in its records an OCFS-5183D form completed within the past year on the foster family, the OCFS-5183D report will satisfy this requirement.

Receipt and review of the OCFS-5183D form in satisfaction of the above requirements must be documented in the FAD module in CONNECTIONS.

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<sup>1</sup> 19-OCFS-ADM-12.

Requirements for Initial Employment of All Staff and Annual Reexamination of Food Handlers and Staff With Direct Contact With Children Cared for in OCFS-Licensed Institutions

18 NYCRR 442.18(e)(2) was amended to add the requirement for all staff as condition of employment in an institution, to provide a report of a physical exam conducted no later than 12 months from the date of application. The amendment also removed the requirement for these individuals to complete an intradermal tuberculin test, with chest X-rays, where such test result is positive.

All staff seeking employment in an institution must

- provide a report of a physical exam conducted no later than 12 months from the date of application by a physician, physician assistant, nurse practitioner or other licensed and qualified health care practitioner, as appropriate, regarding the individual's general health that indicates the absence of communicable disease, infection or illness, or any physical or mental condition(s) that might affect the proper care of children, or that presence of any identified affliction does not pose a risk to the health and safety of children.
- The medical director may, at their discretion, require blood tests and such other tests as medically indicated.
- The results of the physical examination must be reviewed by the medical director, who must certify in writing the individual's fitness for employment. The certification must be retained by the agency and kept available for inspection.

In addition to the initial physical examination at time of employment, food handlers and staff having direct contact with children must

- have an annual physical examination conducted in a similar manner as the initial examination; and
- the results of the physical examination must be reviewed by the medical director who must certify in writing the individual's fitness for employment. The certification shall be retained by the agency and kept available for inspection.
- The medical director may, at their discretion, require blood tests and such other tests as medically indicated.

Requirements for Initial Employment and Annual Reexamination of Food Handlers and Staff Caring for Children in OCFS-Licensed Group Homes

18 NYCRR 448.3(c)(3) was amended to eliminate the requirement that food handlers and persons caring for children in group homes have at time of initial employment and annually an intradermal tuberculin test and additional reports, including chest X-rays, where such test is positive and serological tests as indicated.

Food handlers and staff employed in a group home licensed by OCFS must

- submit a report of a physical examination conducted no later than 12 months from the date of application, and annually thereafter, by a physician, physician assistant, nurse practitioner or other licensed and qualified health care practitioner, as appropriate, regarding the individual's general health that indicates the absence of communicable disease, infection, illness or any physical or mental condition(s) that

might affect the proper care of children, or that the presence of any identified affliction does not pose a risk to the health and safety of children.

- Food handlers and staff caring for children in a group home or group residence must be reexamined annually in a similar manner.

#### **IV. Required Action**

LDSSs and VAs must align their certification/approval and employment processes with the regulatory changes described in this ADM. LDSSs and VAs must also continue to apply all relevant regulatory, statutory and relevant policy directives when assessing the approval of prospective adoptive parents, certification/approval of FBHs and employability of staff in congregate care settings.

#### **V. Contacts**

Any questions concerning this release should be directed to the appropriate Division of Child Welfare and Community Services' regional office:

Buffalo Regional Office - Amanda Darling (716) 847-3145

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#### **VI. Effective Date**

This ADM is effective immediately.

*/s/ Lisa Ghartey Ogundimu*

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#### **Issued By:**

Name: Lisa Ghartey Ogundimu

Title: Deputy Commissioner

Division/Office: Child Welfare and Community Services