

Office of Children and Family Services

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Workload Reduction

I.D. No. CFS-39-23-00002-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of sections 443.2, 443.3 and 443.7 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20(3)(d), 34(3)(f) and 378(5)

Subject: Workload Reduction.

Purpose: To update various rules regarding the certification or approval of foster family boarding homes.

Text of proposed rule: Subdivision (c) of section 443.2 of Title 18 NYCRR is amended by adding a new paragraph (8) to read as follows:

(8) *Foster Family Boarding Home Applicants with Approved Adoptive Home Studies. Authorized agencies may use relevant and timely information from a previously approved adoptive home study completed in accordance with Part 421 of this Title to assist in completion of the foster family boarding home study. Information from a previous adoptive home study does not automatically satisfy the requirements for a foster family boarding home study. Any additional or differing requirements pursuant to Part 443 of this Title and any other standards prescribed by the Office of Children and Family Services for foster family boarding home certification or approval must be met. Authorized agencies that use information from a previously approved adoptive home study must do so by taking the following steps:*

(i) *review the information about the family obtained in the approved adoptive home study that is available to the agency staff conducting the foster family boarding home study;*

(ii) *identify any information that does not meet the standards of Part 443 of this Title or any standards prescribed by the Office of Children and Family Services;*

(iii) *identify any information needed for a foster family boarding home study that is lacking or information from the adoptive home study which is no longer accurate;*

(iv) *identify areas including family functioning that may need further exploration or strengthening;*

(v) *clarify for the applicant the difference between adoption and foster care including, but not limited to, those related to subsidies; and*

(vi) *conduct a foster family boarding home study process that:*
(a) *does not repeat information gathering activities with regard to information already available;*

(b) *obtains additional or updated information including obtaining the results of any criminal history record check completed on the applicant and each person over the age of 18 currently residing in the home of the applicant in accordance with section 427.27 of this Title, conducting a state criminal history record check through the Division of Criminal Justice Services on any person over the age of 18 in the home who has not previously had such a state criminal history check, and conducting a national criminal history record check through the Federal Bureau of Investigation on the applicant and each person over the age of 18 currently residing in the home of the applicant;*

(c) *focuses on areas needing further exploration or strengthening;*

(d) *includes inquiring of the Office of Children and Family Services whether an applicant or other person over the age of 18 who resides in the home of the applicant is the subject of an indicated report of child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and Maltreatment, in accordance with paragraph (7) of subdivision (b) of this section, and, if the applicant or other person over the age of 18 who resides in the home of the applicant resided in another state at any time during the five years preceding the application made pursuant to this section, includes inquiring of the applicable child welfare agency in each such state for child abuse and maltreatment information maintained by that state's child abuse and maltreatment registry, in accordance with paragraph (7) of subdivision (b) of this section; and*

(e) *includes inquiring of the Justice Center for the Protection of*

People with Special Needs whether an applicant or other person over the age of 18 who resides in the home of the applicant is listed on the register of substantiated category one cases of abuse or neglect maintained by the Justice Center for the Protection of People with Special Needs, in accordance with paragraph (7) of subdivision (b) of this section.

Paragraphs (4) and (7) of subdivision (a) of section 443.3 of 18 NYCRR are amended to read as follows:

(4) [Separate bedrooms are required for children of the opposite sex over seven years of age, unless the children are siblings or half siblings sharing the same bedroom and the alternative sleeping arrangement is consistent with the health, safety, and welfare of each of the siblings or half-siblings and is necessary to keep the siblings or half siblings placed together in the same foster home.] *Sleeping arrangements should be age and developmentally appropriate for all the children placed in the home. Further, sleeping arrangements, including those that involve room sharing with any other child or adult, must be consistent with the health, safety, welfare and in the best interests of the children placed in the home.*

(7) [No child above the age of three years may sleep in the same room with an adult of the opposite sex.] Children must not sleep together in the same bed as an adult.

Paragraphs (1), (2) and (3) of subdivision (h) of section 443.7 of 18 NYCRR are amended to read as follow:

(h) Continued placement.

(1) An emergency relative foster home approved on an emergency expedited basis for 90 days in accordance with this section may continue to provide foster care beyond the 90th day of approval as an emergency relative foster home when the foster parent has otherwise satisfied all of the requirements for final approval as an approved foster home except for: (i) the completion of the Statewide Central Register of Child Abuse and Maltreatment database check process in accordance with section 443.2 of this Part; [.] or (ii) the completion of the process to check the Justice Center's register of substantiated Category one cases of abuse or neglect maintained by the Justice Center for the Protection of People with Special Needs in accordance with section 443.2 of this Part, or (iii) the completion of the criminal history record check process in accordance with section 443.8 of this Part where the approved emergency relative foster parent has otherwise complied with the requirements of subdivisions (e) and (f) of this section, or (iv) the submission of a completed medical report form required by section 443.2 of this Part if the authorized agency determines that barriers exist to timely submission of such completed form and the emergency relative foster parent is making reasonable efforts to overcome those barriers, with the assistance of the authorized agency, if necessary and practicable.

(2) Such approved emergency relative foster parent may continue to provide foster care until the completion of the Statewide Central Register of Child Abuse and Maltreatment check process as set forth in section 443.2 of this Part, the check of the Justice Center's register of substantiated Category one cases of abuse or neglect as set forth in section 443.2 of this Part [and], the criminal history record check process as set forth in section 443.8 of this Part, and submission of a completed medical report form as set forth in section 443.2 of this Part, or unless the approval is otherwise revoked by the authorized agency for cause in accordance with this Part.

(3) Upon receipt of the result(s) of the Statewide Central Register of Child Abuse and Maltreatment and the criminal history record check(s) from the Office of Children and Family Services, [and] the check of the register of substantiated category one cases of abuse or neglect from the Justice Center for the Protection of People with Special Needs, and submission of a completed medical report form as set forth in section 443.2 of this Part, the authorized agency must make a decision whether to grant final approval of such emergency foster parent within 60 days of the receipt of such results. If, once the Statewide Central Register of Child Abuse and Maltreatment database check process, the Justice Center's register of substantiated category one cases of abuse or neglect check process, [and] criminal history record check process are completed, a completed medical report form as set forth in section 443.2 of this Part is submitted, and the authorized agency determines that the home should continue to be approved, a final approval must be issued for the home.

Text of proposed rule and any required statements and analyses may be obtained from: Stephanie Deyoe, Office of Children and Family Services, 52 Washington Street, Rensselaer, NY 12144, (518) 402-3891, email: regcomments@ocfs.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement

1. Statutory authority:

Section 20(3)(d) of the Social Services Law (SSL) gives the New York State Office of Children and Family Services (OCFS) the authority to es-

establish rules and regulations to carry out its powers and duties pursuant to the SSL.

Section 34(3)(f) of the SSL authorizes the Commissioner of OCFS to promulgate regulations establishing standards for the administration of public assistance and care within New York State.

Section 378(5) of the SSL authorizes OCFS to establish, alter or amend regulations governing the issuing of foster home licenses and certificates and prescribing standards for the care of children and/or minors received under such licenses and certificates.

2. Legislative objectives:

The proposed regulations would support the protection and care of children in foster care by establishing efficient and effective standards.

3. Needs and benefits:

Local departments of social services (LDSSs) and voluntary authorized agencies (VAs) are frequently experiencing workforce shortages and high turnover that make child welfare work, including recruitment and retention of foster homes, increasingly difficult. The proposed regulations are an effort to reduce some of the rules creating barriers to timely and appropriate approval and certification of foster homes. These amendments address challenges identified by LDSSs and VAs.

The first proposed amendment would allow for reduced duplication in information gathering for foster family boarding home studies. In some cases, approved adoptive parents subsequently decide to foster. The proposed regulation would allow relevant, appropriate, and timely information from the prior adoptive home study to be used toward completion of the foster family boarding home study.

The second proposed amendment would address foster family boarding home certification and approval challenges resulting from space issues in the home. The proposed regulations would remove the current limitations on room sharing for children of the opposite gender over 7 years of age, or a child over the age of 3 sharing a room with an adult of the opposite gender. Instead, LDSSs and VAs would have flexibility to determine sleeping arrangements so long as they are developmentally appropriate for all children placed in the home. Additionally, any room sharing between children, or children and adults, must be consistent with the health, safety, welfare and in the best interests of the children placed in the home. This flexibility considers that in some cases, based on the needs of the child, it is in the best interest to room share rather than change the child's placement. This change would allow flexibility in placement decision-making and would increase the pool of potential resources for children in need of placement in foster/adoptive homes.

The third proposed amendment would acknowledge that submission of a timely completed medical form is a major barrier for foster parent applicants, particularly for kinship foster parents who may lack insurance and/or a primary doctor. The proposed amendment would allow an extension of the emergency approval for kinship foster parents beyond 90 days for challenges related to submitting a timely completed medical form if the emergency approved kinship foster parent is making reasonable efforts, with the assistance of the agency if appropriate and practicable.

4. Costs: There are no costs to regulated entities, the State, local government, or the Office as a result of the proposed amendments.

5. Local government mandates:

The proposed regulations would not impose any additional mandates on LDSSs and would create some mandate relief.

6. Paperwork:

There are no additional paperwork requirements associated with the proposed regulations.

7. Duplication:

The proposed regulations would not duplicate other state or federal requirements.

8. Alternatives:

Alternatives to maintain current standards for approving and certifying foster boarding homes were considered. A workgroup of LDSSs and VAs provided feedback about how the current standards create unnecessary barriers to achieving safe and appropriate foster home placements for children. These insights influenced OCFS's decision to pursue the proposed regulations.

9. Federal standards:

The proposed regulations would not conflict with current federal child welfare standards.

10. Compliance schedule:

Compliance with the proposed regulations would begin immediately upon final adoption.

Regulatory Flexibility Analysis

The proposed amendments will not have an adverse impact on small businesses or local governments. Small businesses (other than voluntary authorized agencies [VAs], as defined by section 371(10)(a) of the Social Services Law) and local government (other than local departments of social services [LDSSs]) are not impacted by the proposed regulations.

The proposed regulations would impact the 58 LDSSs and 89 VAs that approve or certify foster boarding homes. The impact is a reduction of duplicative information gathering for certain foster family boarding home studies, creating greater flexibility to approve or certify foster homes by expanding the ability for children in foster care to room share, and by allowing more time for approved emergency kinship foster homes to overcome barriers to submitting the medical form required for full approval. Accordingly, OCFS has determined that the proposed regulations will not impose new reporting, recordkeeping, or other compliance costs.

Rural Area Flexibility Analysis

The proposed amendments will not have an adverse impact on small businesses or local governments in rural areas. The proposed regulations will have a positive impact on the 44 local departments of social services (LDSSs) and 35 voluntary authorized agencies (VAs) that are in rural areas. The proposed regulations would allow greater flexibility in certifying foster homes and approving kinship foster homes, and in some cases, they would reduce duplicative work involved in conducting foster family boarding home studies for approved adoptive parents now seeking to become foster parents. Accordingly, OCFS has determined that the proposed regulations will not impose new reporting, recordkeeping, or other compliance costs and will instead create greater flexibility and ease barriers to approving or certifying foster homes.

Job Impact Statement

The proposed amendments will not have a negative impact on jobs or employment opportunities in either public or private child welfare agencies. There may be a positive impact due to the potential for expanded placement options for children, which may lessen stress on workers during the placement decision-making process. There may also be a positive impact should workload reduction efforts lead to greater retention of staff.

Education Department

EMERGENCY RULE MAKING

Removes Requirement That a Postdoctoral General Practice or Specialty Dental Residency Program Experience be Clinically Based

I.D. No. EDU-04-23-00006-E

Filing No. 776

Filing Date: 2023-09-12

Effective Date: 2023-09-13

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of section 61.18 of Title 8 NYCRR.

Statutory authority: Education Law, sections 207, 6504, 6506, 6507, 6601, 6604; L. 2022, ch. 613

Finding of necessity for emergency rule: Preservation of public health and general welfare.

Specific reasons underlying the finding of necessity: The proposed rule is necessary to implement Chapter 613 of the Laws of 2022, which became effective November 21, 2023. The proposed rule conforms the Commissioner's regulations to Chapter 613, which amends Education Law § 6604(3) by removing the requirement that the postdoctoral general practice or specialty dental residency program experience required for dental licensure needs to be clinically based. Chapter 613 was designed to address that fact that certain well-recognized accredited dental residency programs in oral medicine, orofacial pain, and dental public health are excluded from satisfying the experience requirement for dentist licensure because they are not deemed to be 50 percent clinically based specialty residencies. This prevents qualified dental school graduates with accredited residency training from obtaining a license after spending two to three years in a dental specialty program. Chapter 613 eliminates this unnecessary restriction on dental residency programs. It recognizes that the Department is responsible for all formal outcome assessments evaluating all residencies for dentistry and related specialties. This will expand access to much needed dental services by increasing the number of dentists in New York.