

## CHILDREN AND FAMILIES

(a)

### DIVISION OF CHILD PROTECTION AND PERMANENCY

#### Resource Care

#### Proposed Redoption with Amendments: N.J.A.C. 10:122B

Authorized By: Allison Blake, Ph.D., L.S.W., Commissioner,  
Department of Children and Families.

Authority: N.J.S.A. 9:3A-7.f, 30:4C-4(h) and 30:4C-26.a.

Calendar Reference: See Summary below for explanation of  
exception to calendar requirement.

Proposal Number: PRN 2016-008.

Submit written comments by March 4, 2016, to:

Pamela Wentworth, M.S.W.  
Office of Policy and Regulatory Development  
Division of Child Protection and Permanency  
PO Box 717  
Trenton, New Jersey 08625  
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The agency proposal follows:

#### Summary

Pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, N.J.A.C. 10:122B, Foster Care, is scheduled to expire on December 2, 2015. Pursuant to N.J.S.A. 52:14B-5.1.c(2), this date is extended by 180 days to May 30, 2016. The Division of Child Protection and Permanency (Division) has reviewed these rules and has determined that they continue to be necessary, proper, and reasonable for the purpose for which they were originally promulgated, as required by Executive Order No. 66 (1978).

As the Division has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

This chapter was first promulgated in 1993. This chapter was redopted with amendments in 1997, 2003, and 2008.

The purpose of this chapter is to enable the Division to maintain a supply of licensed resource homes to care for children who need to be removed from their own homes and placed with safe and appropriate families, either temporarily or permanently.

N.J.A.C. 10:122B is an introductory chapter that contains general provisions applying to N.J.A.C. 10:122C, Manual of Requirements for Resource Family Parents, 10:122D, Services for Children in Out-of-Home Placement, and 10:122E, Removal of Children in Placement from Resource Family Homes.

N.J.A.C. 10:122B-1.1 states the purpose of the chapter.

N.J.A.C. 10:122B-1.2 states the scope of the chapter and the regulatory framework of this series of chapters.

N.J.A.C. 10:122B-1.3 states the definitions used in this chapter and in this series of chapters.

N.J.A.C. 10:122B-1.4 states service limitations for each child in placement and the child's family.

N.J.A.C. 10:122B-1.5 states the Division's nondiscrimination policy for resource care services and the licensing of resource parents.

N.J.A.C. 10:122B-1.6 states citations regarding dispute resolution opportunities.

N.J.A.C. 10:122B-2.1 states the circumstances under which a Department employee, his or her household members, and relatives can become or remain resource parents and the process for approving them to become resource parents.

N.J.A.C. 10:122B-2.2 states the process for the relative of a Department employee to become a licensed resource parent.

N.J.A.C. 10:122B-3.1 states the Division's and contract agency's responsibilities regarding criminal history checks for resource parents and their household members.

N.J.A.C. 10:122B-4.1 states the responsibilities of the Division and the contract agency to the resource parent.

N.J.A.C. 10:122B-5.1 states the pre-service training requirements.

N.J.A.C. 10:122B-5.2 states the circumstances for which a resource parent is reimbursed.

N.J.A.C. 10:122B-5.3 states the requirements for a home visit by a Division representative.

N.J.A.C. 10:122B-5.4 states information about a resource parent applicant's withdrawal of his or her application.

N.J.A.C. 10:122B-5.5 states information about reimbursing a resource parent for transportation costs.

N.J.A.C. 10:122B-5.6 states requirements for a resource parent's employment and child care for a child in placement.

Pursuant to N.J.S.A. 9:3A-10, the Division of Youth and Family Services was changed to the Division of Child Protection and Permanency, effective June 29, 2012. The Division proposes to amend the definitions of "Division Director" and "Division representative" at N.J.A.C. 10:122B-1.3 to reflect the correct name.

The Division is removing reference to an expired rule, N.J.A.C. 10:120B, from N.J.A.C. 10:122B-1.6, as well as reference to "a contract agency." N.J.A.C. 10:120B regulated dispute resolution for decisions made by a contract agency. Since that rule expired on December 13, 2013, dispute resolution for contract agency decisions is not regulated.

#### Social Impact

These rules have served to protect vulnerable children who need resource care from the Division by providing standards, payments, and services applicable to resource parents to ensure that the resource home and family are safe. The goal of providing safe, nurturing, resource families for abused or neglected children remains constant.

These rules affect each child placed in resource care, 6,748 children as of October, 2015. There are 3,814 children placed in non-kin resource homes and 2,861 children placed in kin resource homes.

No service limitations have been imposed in the years since these rules have been operative. The service limitations section, N.J.A.C. 10:122B-1.4, allows the public to know when the Division has limited services to children placed in resource care and their families due to a shortage of money to fund the services.

The social impact of the nondiscrimination statement is again to inform the public of the Division's policies on this subject.

#### Economic Impact

The Division is appropriated \$80,331,998 in Federal Title IV-E funds for fiscal year 2015. Under Title IV-E of the Social Security Act, the Division must meet certain standards in order to be eligible for the appropriated funds. These rules assist the Division to meet the Federal requirements by operationalizing the Federal requirements.

Specifically, these rules assist the Division to meet 42 U.S.C. §§ 671(a)(10), (11), (18), (20), and (24). In each of these citations, the statute requires that the State have a plan, which provides that certain activities are done. These rules specify that some of the activities stated in the above cites be done.

42 U.S.C. § 671(a)(18)(B) requires a State, which receives funding under Title IV-E of the Social Security Act to prohibit denying the opportunity to become a foster or adoptive parent or delaying or denying foster or adoptive placement on the basis of race, color, or national origin of the applicant, foster or adoptive parent, or child involved. Graduated financial penalties can be implemented if a State fails to meet these requirements, pursuant to 42 U.S.C. § 674(d)(1).

The reimbursements allowed in proposed N.J.A.C. 10:122B-5.1 for a physical examination, transportation, parking, and babysitting costs incurred by the resource parent applicant in completing the resource care licensing process have a positive effect on resource parent applicants. These reimbursements are meant to encourage people to apply to become licensed foster parents by reducing the costs of being licensed.

N.J.A.C. 10:122B-5.2 and 5.3 guarantee that the Division will pay transportation costs for a child placed in resource care and child care costs for a child in resource care under certain, specified circumstances. The purpose is to assure resource parents that the Division will provide money to pay for these expenses. The money will not have to come out of the resource parent's own income.

**Federal Standards Statement**

The requirements in the rules proposed for readoption with amendments are not in excess of those imposed by Federal law. The rules implement various sections of Title IV-E of the Social Security Act, 42 U.S.C. §§ 671 et seq.

42 U.S.C. § 671(a)(10) requires that the State have a plan that provides for standards for foster homes, including standards for the protection of civil rights for any foster home receiving funds through Title IV-E. 42 U.S.C. § 671(a)(11) requires that the State have a plan that provides for the periodic review of these standards. These rules establish nondiscrimination standards to protect the civil rights of resource parent applicants, resource parents, and children in placement, at N.J.A.C. 10:122B-1.5. The rules proposed for readoption with amendments provide for the periodic review of the standards, as required by 42 U.S.C. § 671(a)11.

42 U.S.C. § 671(a)(18) prohibits a State from denying an applicant the opportunity to become an adoptive or foster parent or from denying or delaying the placement of a child for adoption or in a foster home on the basis of the race, color, or national origin of the adoptive or foster parent applicant, adoptive or foster parent, or child. 42 U.S.C. § 674(d)1 requires a graduated reduction in Federal payments under this title if 42 U.S.C. § 671(a)18 is violated by the State. These rules establish the Division’s application of these statutes to the New Jersey resource care program.

42 U.S.C. § 671(a)(20)(A) requires that the plan provide procedures for criminal records checks for foster and adoptive parent applicants. N.J.A.C. 10:122B-3.1 states the Division’s and the contract agency’s responsibilities in completing the criminal history checks.

42 U.S.C. § 671(a)(24) requires a State plan, which requires that a prospective foster parent applicant receive appropriate knowledge and skills to provide foster care, and that such knowledge and skills continue to be provided after a child is placed with the foster parent. N.J.A.C. 10:122B-5.1 requires that the Division provide pre-service training. N.J.A.C. 10:122B-4.1 requires that the Division or contract agency provide information and assistance to each licensed resource parent.

These rules supplement and do not exceed the Federal laws related to foster and adoptive care.

**Jobs Impact**

The Division does not expect that the rules proposed for readoption with amendments will result in the generation or loss of any jobs.

**Agriculture Industry Impact**

The rules proposed for readoption with amendments have no impact on the agriculture industry.

**Regulatory Flexibility Analysis**

Neither the Division, nor those receiving resource care from the Division, nor resource parents providing resource care to children under the Division’s supervision are considered a small business under the terms of N.J.S.A. 52:14B-16 et seq., the Regulatory Flexibility Act. The Division contracts with private not-for-profit social service agencies to provide resource care for children under the supervision of the Division. Some of these social service agencies are considered small businesses under N.J.S.A. 52:14B-16 et seq.

The rules require that the Division and contract agencies obtain and keep confidential all criminal history information obtained on resource parent applicants and adult household members at N.J.A.C. 10:122B-3.1(b) and (c). The Division is not differentiating between the Division and large social service agencies, and the agencies with which it contracts that are small businesses because the gathering of criminal history information is required by State statute, N.J.S.A. 30:4C-26.8 and 27.8. Obtaining criminal history information is necessary to protect the health, safety, and welfare of children who may be placed with the resource parents. The cost of obtaining criminal history record checks is covered by the Department when applicants are studied by either the Division or an agency under contract with the Division. No capital improvements are needed for the “small business” social service agencies to comply with this requirement. No professional services in addition to the professional services of social workers already employed by these agencies are needed to meet the requirements of this rule.

**Housing Affordability Impact Analysis**

The rules proposed for readoption with amendments have no impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average cost associated with housing, as these rules establish the Division’s procedures and requirements for resource homes.

**Smart Growth Development Impact Analysis**

The rules proposed for readoption with amendments have no impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey, as these rules establish the Division’s procedures and requirements for resource homes.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:122B.

**Full text** of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

10:122B-1.3 Definitions

(a) (No change.)

(b) The following words and terms used in this chapter and in N.J.A.C. 10:122C, 10:122D, and 10:122E shall have the following meanings, unless the context clearly indicates otherwise:

...  
 “Division Director” means the Director of the Division of [Youth and Family Services] **Child Protection and Permanency**.

“Division representative” means a professional employee of the Division of [Youth and Family Services] **Child Protection and Permanency**.

...

10:122B-1.6 Dispute resolution

Any person included in the scope of [these rules] **this chapter**, as specified in N.J.A.C. 10:122B-1.2(a), shall refer to N.J.A.C. 10:120A, Dispute Resolution[, N.J.A.C. 10:120B, Hearings,] and N.J.A.C. 10:122C-2.5 to determine if he or she has any opportunity available to resolve a dispute with the Division [or a contract agency].

**(a)**

**DIVISION OF CHILD PROTECTION AND PERMANENCY**

**Services for Children in Out-of-Home Placement  
 Proposed Readoption: N.J.A.C. 10:122D**

Authorized By: Allison Blake, Ph.D., L.S.W., Commissioner,  
 Department of Children and Families.

Authority: N.J.S.A. 30:4C-4(h) and 30:4C-26a.

Calendar Reference: See Summary below for explanation of  
 exception to calendar requirement.

Proposal Number: PRN 2016-009.

Submit written comments by March 4, 2016, to:

Debra A. Hayes  
 Office of Policy and Regulatory Development  
 Division of Child Protection and Permanency  
 PO Box 717  
 Trenton, NJ 08625  
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The agency proposal follows:

**Summary**

As the Division of Child Protection and Permanency (Division) has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.