

(c) Each administrator shall:

1. Complete the NHSN enrollment process established in the NHSN Facility Administrator Enrollment Guide[, Updated March 23, 2007, incorporated herein by reference, as amended and supplemented];

2.-4. (No change.)

(d) Each authorized user shall:

1. Complete the NHSN enrollment process established in the NHSN [User Start-up Guide, Updated March 23, 2007, incorporated herein by reference, as amended and supplemented] **Facility Administrator Enrollment Guide**; and

2. (No change.)

(e) (No change.)

8:56-2.4 Process for data collection and reporting of CDC HAI data

(a) (No change.)

(b) Each administrator and/or authorized user shall:

1. Adhere to the NHSN data collection and reporting requirements established in the document entitled [Purposes, Eligibility, Requirements, and Confidentiality, incorporated herein by reference, as amended and supplemented] **NHSN Facility Administrator Enrollment Guide**.

[1. The document entitled Purposes, Eligibility, Requirements, and Confidentiality, is available electronically at the following website for the NHSN Document Library, http://www.cdc.gov/ncidod/dhqp/nhsn_documents.html#; and

2. (No change.)

(c) (No change.)

(d) A health care facility shall report the required data for a calendar quarter [within 30 days of the end of a calendar quarter] **in accordance with CMS data reporting requirements, which may be found on the internet at www.cdc.gov/NHSN/CMS/index.html**.

8:56-2.6 HAI data required to be reported **and access to HAI data**

(a) (No change.)

(b) Each health care facility shall report CMS HAI data, as stated in the Department's notification, described in (c) below, that the Commissioner, in consultation with the QIAC, selects from the list of process quality measures established in the Specifications Manual for National Hospital Quality Measures (Version [2.4] 5), incorporated herein by reference, as amended and supplemented.

1. (No change.)

(c) (No change.)

(d) The Department's written notification, pursuant to (c) above, shall be through the following methods:

1. Sending a notification letter **or e-mail** to each health care facility's chief executive officer and administrator; and

2. Posting the notification letter **or e-mail** on the Department's website at <http://www.state.nj.us/health/healthcarequality>.

(e) Each health care facility shall grant access to HAI data required by the CMS and the CDC to the New Jersey State HAI Group through the confer rights process.

8:56-2.7 Data accuracy and retention

[(a) The chief executive officer, or his or her designee, of each health care facility shall submit in writing to the Department, by June 1st annually, a signed statement certifying that the facility has processes in place to ensure accurate submission of CDC HAI data in accordance with NHSN requirements during the current reporting year.

1. The mailing address to which the chief executive officer, or his or her designee, shall submit the written certification to is:

Office of Health Care Quality Assessment
New Jersey Department of Health and Senior Services
PO Box 360
Trenton, NJ 08625-0360]

Recodify existing (b) and (c) as **(a) and (b)** (No change in text.)

SUBCHAPTER 3. UTILIZATION OF REPORTED DATA

8:56-3.1 Department use of reported data

(a) The Department shall utilize procedures to allow appropriate comparison of the quality of care related to HAI across health care facilities that include, but are not limited to:

1. Consideration of the number of [device-days] **device days** to calculate device-associated infection [rates] **ratios**;

2.-3. (No change.)

(b) The Department shall make available to the public the results of the Department's analysis set forth in (a) above through:

1. Inclusion of the results for general hospitals in the New Jersey Hospital Performance Report, written and published annually by the Department, and available through the following methods:

i. (No change.)

ii. Anyone wishing to obtain multiple copies of the New Jersey Hospital Performance Report for a fee, **as provided by N.J.S.A. 47:1A-5**, may send a written request to: Office of the Commissioner, Office of Health Care Quality Assessment, New Jersey Department of Health [and Senior Services], PO Box 360, Trenton, NJ 08625-0360; or call (800) 418-1397; or

iii. [Inclusion of the results in] **Via** the interactive online version of the New Jersey Hospital Performance Report available at <http://web.doh.state.nj.us/hpr>; and

2. Inclusion of the results for ambulatory surgery facilities [shall be made available] on the Department's website at <http://www.state.nj.us/health/healthcarequality>.

CHILDREN AND FAMILIES

(a)

OFFICE OF LICENSING

Manual of Requirements for Adoption Agencies

Proposed Readoption with Amendments: N.J.A.C.

10:121A

Proposed Recodification with Amendments: N.J.A.C.

10:121A-1.1 as 1.2

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

Authority: N.J.S.A. 9:3-37 et seq., 9:3A-7g, and 30:4C-4(b) and (h).

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

Proposal Number: PRN 2015-160.

Submit written comments by February 19, 2016, to:

Pamela Wentworth, M.S.W., L.S.W.
Department of Children and Families
PO Box 717
Trenton, New Jersey 08625
or rules@dcf.state.nj.us

The agency proposal follows:

Summary

The Office of Licensing (Office) proposes to readopt with amendments the rules governing the licensing of adoption agencies involved in the adoption of children in New Jersey. The rules affect those who operate adoption agencies, the children placed by the adoption agencies, the birth parents and adoptive parents of those children, and the adult adoptees.

N.J.A.C. 10:121A has been in effect since 1981, with brief periods between readoptions.

Pursuant to N.J.S.A. 52:14B-5.1.c(2), N.J.A.C. 10:121A expires on May 1, 2016. The Department 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.

The Office proposes to recodify N.J.A.C. 10:121A-1.1, Scope, as 1.2, with a technical change to put the rule in the standard order. Likewise, the Office proposes to recodify N.J.A.C. 10:121A-1.2, Purpose, as 1.1.

The Office proposes to amend N.J.A.C. 10:121A-1.3 to include a toll-free telephone number that the public can use to contact the Office. This is a convenience to the public and is unlikely to change.

The Office proposes to amend N.J.A.C. 10:121A-1.4 to delete subsection (a). Since it repeats the information in the chapter authority, it is unnecessary. Subsections (b) through (d) are proposed to be recodified as (a) through (c). The Office proposes to amend recodified N.J.A.C. 10:121A-1.4(a) to clarify that all public and private adoption agencies that provide adoption services in New Jersey are covered by this chapter. The current rule limits the agencies to those that were involved in the placement of children. This was a limit not present in State law, which is being corrected. Recodified subsection (e) is further amended to state when agencies located outside of New Jersey do not need to be certified.

The Office proposes to remove “/or” from N.J.A.C. 10:121A-1.5(a) to clarify that parental rights and responsibilities of both birth parent and legal parent are transferred in an adoption.

N.J.A.C. 10:121A-1.5(b)2 and 5.9(d) are proposed for amendment to include 42 U.S.C. §§ 4922, 14923, and 14925, the Intercountry Adoption Universal Accreditation Act of 2012, effective July 14, 2014. Paragraph (b)3 is proposed for amendment to change the defined term from “identified adoption” to “identified adoption” or “private adoption.” This acknowledges that both terms are currently in use. This paragraph is further amended to clarify the sentence to indicate that adoption services are provided to each birth parent, legal parent, and prospective adoptive parent who is considering adoption.

The definition of “adoption applicant” at N.J.A.C. 10:121A-1.6 is proposed for deletion and replacement with “adoptive applicant,” which is used throughout the chapter (throughout the chapter similar changes are proposed). The new term is proposed to be used in the heading of N.J.A.C. 10:121A-3.4 and in 1.6, “adoption agency.”

The Office proposes to amend six definitions in N.J.A.C. 10:121A-1.6 with technical changes: adoption agency, denial of certificate, revocation of certificate, social worker, social work supervisor, and subsidy.

The Office is adding a definition of “Commissioner” to N.J.A.C. 10:121A-1.6 for clarity.

The legal citation in the definition of “finalization” at N.J.A.C. 10:121A-1.6 is proposed for amendment to cite N.J.S.A. 9:3-37 et seq., instead of N.J.S.A. 9:3-38 et seq. Every other citation cites N.J.S.A. 9:3-37 et seq. This amendment brings consistency to the rule.

The definition of “Adoption Complaint Investigation” at N.J.A.C. 10:121A-1.6 is amended to correct the terminology from “post-adoption services” to “post-placement services.” The Office proposes to amend the definition of “intermediary” to include an “adoption facilitator,” a term in use to mean an intermediary. The Office is clarifying that this chapter affects agencies that place children for adoption both in New Jersey and for those who are from New Jersey.

The Office proposes to remove the definition of “chapter.” The term is self-explanatory and does not require defining.

The term, satellite office, is proposed, as the term is used at proposed N.J.A.C. 10:121A-3.6(a)1. The legal term “substantial compliance” is proposed for deletion, because the definition does not deviate from vernacular usage.

The Office proposes to add a definition for “private and professional setting” in order to provide the regulated community with clarity on the requirement to provide such a setting elsewhere in the chapter.

The definition of “staff member” proposed for amendment to include paid and unpaid individuals who provide temporary foster care for children. This amendment includes these individuals as staff members who are required to have Criminal History Record Information background checks at N.J.A.C. 10:121A-4.5(a).

The definition of “State Adoption Law” is proposed for deletion from N.J.A.C. 10:121A-1.6, as there is no New Jersey law with that title. References to the State Adoption Law throughout the chapter have been replaced by the statutory citation, N.J.S.A. 9:3-37 et seq.

The Office proposes to amend N.J.A.C. 10:121A-1.7(a) to replace the word “approved” with the term “legally permitted.” This accommodates jurisdictions in which adoption agencies are not required to be licensed. The Office also proposes to add “or country” after “state” in this subsection to encompass adoption agencies licensed or legally permitted to operate in foreign nations.

The Office proposes to amend N.J.A.C. 10:121A-1.7(c) to remove the reference to 42 U.S.C. § 671(a)(18) as this was a misapplication of Federal law. The Office is proposing new N.J.A.C. 10:121A-1.7(d) to

require that each adoption agency have a written non-discrimination policy in accordance with N.J.A.C. 10:121A-1.7(b) and (c).

The Office proposes to add a definition of “adoption services” to N.J.A.C. 10:121A-1.6 and to remove the definition of the term that previously was located at N.J.A.C. 10:121A-1.8(a). This allows for the consolidation into the single section.

The Office proposes to amend N.J.A.C. 10:121A-1.8(b)2 to remove “and/.” There is not need in this instance to account separately for instances of the services being provided in combination as distinct from those being provided separately. This clarifies the statement.

The Office proposes new N.J.A.C. 10:121A-1.8(b)6 and 7 to clarify that providers of generally available commercial services and out-of-State adoption agencies working under an affiliation agreement with a licensed agency in New Jersey need not be licensed under this chapter.

The Office proposes to amend N.J.A.C. 10:121A-2.1(a) to update the statutory reference from N.J.S.A. 9:3-39 to N.J.S.A. 9:3-39.1. As N.J.S.A. 9:3-39.1 establishes a crime of the second degree, the Office is also proposing to amend the crime stated in the subsection from one of the third degree to one of the second degree to reflect the statute.

The Office is amending N.J.A.C. 10:121A-2.1(c)8 to remove a citation to N.J.A.C. 10:121A-1.7(b), as 1.7(b), (c), and (d) all each relate to non-discrimination. The Office also proposes to eliminate the qualifier in this section that the agency’s non-discrimination policy be approved by its governing board. So long as the agency has adopted such a policy, the Office disclaims any interest in the procedural aspects of its adoption.

The Office proposes to amend N.J.A.C. 10:121A-2.1(c)10 and 2.2(i) to eliminate the requirement that out-of-State agencies seeking licensure have been in operation elsewhere for at least two years. So long as the agency is able to comply with the requirements of this chapter, there is no additional need to demonstrate a length of operation elsewhere. Paragraph (c)10 is also proposed for amendment to allow, in place of documentation of licensure in another state, submission of a statement attesting that licensure is not required in the other jurisdiction. This change would accommodate agencies operating in jurisdictions that do not require licensure.

The Office proposes to amend N.J.A.C. 10:121A-2.2(d) to remove the qualifier that written direction on what is necessary to achieve licensure will only be provided to applicants when the reason for denial is a threat to the life or safety of clients or children. The Office does not wish to incentivize the creation of such risks, and will provide written guidance to agencies denied for less potentially-tragic reasons.

The Office proposes to amend N.J.A.C. 10:121A-2.2(e)2 to remove the last sentence, which addresses computing the date of expiration from the date of issuance of a new certificate for an agency that has reapplied after being closed for six months. This is unnecessary as the date of expiration will be computed automatically from the date of the new date of issuance of the certificate.

The Office proposes to delete the second mention of “Commissioner” from N.J.A.C. 10:121A-2.3(a)5iv, as it is duplicative of N.J.A.C. 10:121A-2.3(a)5iii.

The Office proposes to replace the term “director” with the term “executive director,” which is the defined term at N.J.A.C. 10:121A-2.3(a), 4.5(a), (e), (f), (h), and (i), 4.6(a) and (d), recodified 4.7(b), and 4.8(a) and (b).

The Office proposes to delete N.J.A.C. 10:121A-2.3(a)6 and 8.

The Office proposes to amend recodified N.J.A.C. 10:121A-2.3(a)6 to specify that it is only applicable to agencies failing to maintain licensure in a jurisdiction where such licensure is required, and to broaden its applicability to encompass agencies operating internationally as well.

The Office proposes to change the reference in N.J.A.C. 10:121A-2.3(a)13 from “N.J.A.C. 10:121A-4.5(e)” to “N.J.A.C. 10:121A-4.5.” The entirety of the section deals with disqualifying crimes; subsection (e) is only a small piece of that.

The Office proposes to amend N.J.A.C. 10:121A-2.3(d) to replace “may” with “must.” Agencies are required to be licensed to operate. The use of “may” in this section incorrectly conveys that an agency with a revoked license has the option to reapply for a license before recommencing operations; agencies cannot operate without a license, and, therefore, must reapply before recommencing operations.

The Office is correcting an error at N.J.A.C. 10:121A-2.6(b). The correct citation to the New Jersey Public Records Act is N.J.S.A. 47:1A-1 et seq.

The Office proposes to eliminate the lists of authorities in N.J.A.C. 10:121A-2.6(b) and (c), which might preclude release of information, and replace it with a stipulation that such information shall not be released if prohibited by law. As demonstrated by the already lengthy list of laws restricting disclosure of this information, it is not the exclusive province of any one law to control information disclosure, and there is a likelihood that changes and additions to the existing laws will occur during the lifespan of this chapter. As an exhaustive list is, therefore, impossible, the Office is opting to specify that the rule applies wherever the law prohibits disclosure.

The Office proposes to remove the terms ‘State Child Abuse and Neglect Law’ and ‘Child Abuse and Neglect Law,’ as there is no New Jersey law with that title. The Office has replaced those two terms with the generic term ‘state child abuse and neglect law’ to address these laws in every state, not only New Jersey. Agencies certified in New Jersey may place children for adoption in other states where their child abuse and neglect laws govern. These amendments are located at N.J.A.C. 10:121A-2.6(b) and (c), 2.7(c)1, 3.4(b)6 and 7, 3.5(a), and 4.3(b).

The Office proposes to delete N.J.A.C. 10:121A-2.7(d) to remove the reference to N.J.S.A. 47:1A-2, which has been repealed.

In order to strengthen the fiscal oversight provided by the board of a private agency, the Office proposes to amend N.J.A.C. 10:121A-3.1(b)3 and (d) to require policies and provisions for the annual review of fiscal operations (including bank account records and expenditures) and the board having fiscal expertise. Fiscal oversight will assist in maintaining the stability of the agency and prevent the disruption of services.

N.J.A.C. 10:121A-3.1(h)1 and 4.1(c)1 are proposed for amendment to clarify that the citation stated in the text, N.J.A.C. 10:121A-2.1(c), refers to the application for certification rather than to good character.

N.J.A.C. 10:121A-3.3(c) is proposed for amendment to clarify that New Jersey agencies may work cooperatively with out-of-State agencies. The New Jersey agencies are not working for the agencies in other states.

N.J.A.C. 10:121A-3.3(c)1 is proposed for amendment to clarify that a New Jersey agency may work with an out-of-State agency when it is licensed, certified, or approved as required in its jurisdiction, rather than just where its principal office is located. Adoption laws vary from state to state. This amendment ensures that the adoption services performed are legal in the state in which they occur. The legality in the state where the principle office is located is irrelevant when the services are not performed there. “Country” is added as New Jersey agencies work with agencies in other countries in certain circumstances. The Office proposes to remove the last clause of this paragraph as it is unnecessary. The rule states elsewhere that this chapter applies if the child is placed for adoption in New Jersey or elsewhere.

N.J.A.C. 10:121A-3.3(c)2 is proposed for amendment to remove the requirement that the Office approve a written cooperative agreement between a New Jersey-certified agency and an out-of-State agency. The Office does not perform this task.

The Office proposes to amend N.J.A.C. 10:121A-3.3(c)3, which requires that both agencies develop a written plan in the cooperative agreement. The Office is further amending this paragraph to include two new subparagraphs. New subparagraph (c)3i states that the written plan contain which agency has legal custody of the child. New subparagraph (c)3v states information on how a disruption of the adoption placement is handled before the adoption is finalized to ensure the child’s safety and well-being.

Proposed new N.J.A.C. 10:121A-3.3(d)1 and 2 are proposed to state how identified adoptions and private adoptions operate.

N.J.A.C. 10:121A-3.4(b)5 is proposed for amendment to remove the statement that the Office charges a fee to birth parents and adoptive parents for a copy of this chapter. That is no longer true. The citation at N.J.A.C. 10:121A-3.4(b)7 is proposed for amendment from N.J.S.A. 9:6-8.1 et seq. to N.J.S.A. 9:6-8.8 et seq. to update an outdated citation. This paragraph is also proposed for amendment to include reporting hotlines in other states in order to be more useful.

N.J.A.C. 10:121A-3.4(b)8 are proposed for amendment to inform the public where to get information about child abuse and neglect. New

Jersey information is now available on the internet. It no longer needs to be accessed by contacting the Department of Children and Families directly. Information on child abuse and neglect is also required for the state in which the adoptive parent lives. This is useful information for adoptive parents.

The Office proposes to delete the telephone numbers, update the names of State offices, and add that the agency shall refer the adoptive parents to the equivalent state office in the state where the child lives to N.J.A.C. 10:121A-3.4(c)1 and 2. These amendments bring the New Jersey government references in the rule up-to-date. The amendments acknowledge that children placed with adoptive parents in another state may access services in the state where they live.

The Office proposes to amend N.J.A.C. 10:121A-3.5 to merge paragraph(a)1 into subsection (a) and to delete paragraph (a)2, as that information is addressed at N.J.A.C. 10:121A-3.4(b)8.

At N.J.A.C. 10:121A-3.6(a), the Office sets forth where an agency may keep adoption records, and is proposing to include a certified branch office. This is to assure that adoption records are kept in a secure manner. An error to the cross-reference at N.J.A.C. 10:121A-3.6(a)2 is corrected to N.J.A.C. 10:121A-2.3(a)4, rather than paragraph (a)5.

The Office proposes to amend N.J.A.C. 10:121A-3.6(d)4 and (e)8 to require that agency records include a summary of how the child and adoptive applicant match was made in order to have the material available to verify compliance with N.J.S.A. 9:3-37 et seq.

The Office is clarifying N.J.A.C. 10:121A-3.6(i)1v to clarify that the agency’s personnel record shall include both the staff member’s training and development information.

The Office is proposing to eliminate N.J.A.C. 10:121A-3.7(b) and (c). As the intent of this chapter is to regulate adoption operations, the Office believes it is unnecessary to stipulate that licensed entities have necessary furnishings or list their telephone number in local phone directories. The former requirement is vague and unnecessary, and the latter, originally intended to ensure accessibility and accountability for licensed programs, has been mooted by the ubiquity of reference materials through which telephone and address information can be found.

The Office is correcting an error at N.J.A.C. 10:121A-4.1(b) by removing the second “and” from the second sentence.

The Office proposes to delete N.J.A.C. 10:121A-4.2(a), regarding self-disclosure of criminal convictions, as it repeats information found at N.J.A.C. 10:121A-4.5. The citation to this subsection is removed from N.J.A.C. 10:121A-2.3(a)9.

The Office proposes to amend recodified N.J.A.C. 10:121A-4.2(b) to add clarification that the requirements for licensure as a New Jersey social worker are not applicable to social workers employed by the agency in another state who are not providing social work services in New Jersey.

Proposed new N.J.A.C. 10:121A-4.2(a)5 requires that an agency’s personnel policy contain a conflict of interest statement regarding the use of a business or services by an employee. This assists the agency to maintain proper fiscal practices.

The Office proposes to delete N.J.A.C. 10:121A-4.2(d), regarding social work staff and supervisors being licensed or certified, because it is redundant. This information is found at N.J.A.C. 10:121A-4.2(b).

In order to promote the safety of adopted children, the Office proposes a new requirement for staff development—recognizing and preventing child sex and labor trafficking, at N.J.A.C. 10:121A-4.3(b)4.

The Office is proposing a prohibition on a social work supervisor functioning as a social worker at N.J.A.C. 10:121A-4.4(b)3. This differentiation in functions allows the social work supervisor to be available to supervise.

The Office proposes to delete N.J.A.C. 10:121A-4.4(e), which currently requires licensed agencies to “employ secretarial and other support staff to perform reception, clerical, recordkeeping, bookkeeping and related services” necessary for compliance with this chapter, and sees no ongoing need to dictate that appropriate staff be enlisted in achieving such compliance.

N.J.A.C. 10:121A-4.5(a)1 and 4.6(a)1 are proposed for amendment to correct references to N.J.A.C. 10:121A-2.4, rather than 2.3.

N.J.A.C. 10:121A-4.5(b) is amended to use the defined term, Department.

N.J.A.C. 10:121A-4.5(b), (d), (e), and (h) and 5.6(i)2 are amended to add that a designee who can also review criminal records, process fingerprint cards, make relevant determinations, and take action. This reflects the current arrangement where the Department of Human Services' Central Fingerprint Unit does these reviews.

The Office proposes to remove the phrase "For crimes and offenses other than those cited in (c) above" from N.J.A.C. 10:121A-4.5(e). Rehabilitation is relevant only to those crimes specified in N.J.A.C. 10:121A-4.5(c), and this section currently creates a misleading impression that rehabilitation is required for other crimes.

Recodified N.J.A.C. 10:121A-4.5(e)9 is proposed for amendment to delete "or residing at the agency." N.J.A.C. 10:121A-4.5(a) authorizes an agency to have criminal history record information checks only on the executive director and staff members, not those residing at the agency.

The Office is proposing to amend N.J.A.C. 10:121A-4.5(f) to include a member of the governing board. This gives responsibility for notification of pending criminal charges to board members.

Proposed new N.J.A.C. 10:121A-4.5(k) requires an agency to notify the Department or designee that an executive director or staff member has left the agency. This information allows the Department to remove the former employee's name from the ongoing notification of further criminal activity.

At N.J.A.C. 10:121A-4.6(b)2, the Office proposes to amend the paragraph to state that the Department offers a perpetrator of child abuse or neglect a hearing only if a hearing was not previously offered or held. Only perpetrators substantiated before June 29, 1995, may not have been offered a hearing. The Office also proposes to delete "in a home." As this subchapter is about agency personnel, it does not adequately protect children to determine that the perpetrator poses a risk of harm to children only in a home. The staff member might also pose a risk of harm in the office or other locations.

At N.J.A.C. 10:121A-4.6(c), the Office proposes to amend the subsection to state that the agency may allow an employee to continue working, but not be left alone with any child, until the appeal is either granted or denied. This clarifies this point for agencies and staff members. The Office is correcting an error at N.J.A.C. 10:121A-4.6(e). It is the Department's responsibility to notify a staff member of a substantiation of child abuse or neglect and of his or her ability to request a hearing, if the substantiation occurred before June 29, 1995, not the agency.

N.J.A.C. 10:121A-4.7(c) is proposed for deletion, as it is redundant as subsection (b). Recodified N.J.A.C. 10:121A-4.7(b) is amended to remove the outdated time limit. A new time frame is added to set time frames for in-State agencies to apply for Child Abuse Record Information (CARI) background checks. The checks must be done before the agency's license expires. Applying for the CARI checks in adequate time to complete them allows the licensing to happen on time.

N.J.A.C. 10:121A-4.8(a) and (b) are proposed for amendment to add "information" to the term "criminal history record information." This is the commonly used term. The Office also proposes to amend subsection (a) to require that an out-of-State agency have the results of the criminal history record information background checks available for review. This allows the Office to inspect the records for compliance with State law. The Office is correcting an error at N.J.A.C. 10:121A-4.8(b), where the word "and" was left out.

The Office proposes to delete the requirement at N.J.A.C. 10:121A-5.2(b) that an agency notify the Office when a country is suspending adoption services, as it is not necessary for the Office to have that information.

The Office proposes to amend N.J.A.C. 10:121A-5.2(c) to require that an agency provide clients with certain information, rather than to make the information available. This requirement ensures that the client will receive the information.

The Office proposes to amend the name of the Interstate Services Units to the Office of Interstate Services at N.J.A.C. 10:121A-5.2(d) to accord with current use.

The Office proposes that each agency add information about comparative fees to the schedule of fees provided to clients at N.J.A.C. 10:121A-5.3(c). Giving clients this information will help clients make financial decisions regarding adoption services.

The Office proposes to delete "telephone and in-person" from N.J.A.C. 10:121A-5.4(a). This expands the requirement to include all types of contacts between the agency and the birth family.

The Office proposes to amend N.J.A.C. 10:121A-5.4(b)5 to clarify that the steps listed are not all-inclusive. Other things may reasonably be done to search for a birth father. A new step is proposed to require using available internet resources. This acknowledges that available resource for searching.

N.J.A.C. 10:121A-5.4(c) proposes to amend to correct an error in the cross-reference to N.J.A.C. 10:121A-3.7(e), which should be N.J.A.C. 10:121A-3.7(a).

The Office proposes to add new N.J.A.C. 10:121A-5.4(c)3 to add information given to birth parents.

The Office proposes to amend N.J.A.C. 10:121A-5.4(d)3 to include a reference to N.J.A.C. 10:121A-1.7(c), as well as subsection (b), since both are non-discrimination statements.

At N.J.A.C. 10:121A-5.4(d)7, the Office proposes to add "for finalization" to modify the phrase "a valid surrender for finalization in this State ..." This amendment clarifies that this requirement applies only when the adoption is finalized in New Jersey.

The usage of "pre-placement" has been corrected in the heading of N.J.A.C. 10:121A-5.5 to match the usage of the word elsewhere in the chapter.

The Office proposes to amend N.J.A.C. 10:121A-5.5(b) to include numerous requirements for an agency to evaluate in order to approve a foster parent. The proposed requirements would ensure consistent and comprehensive evaluations of adoptive applicants across the State, and greatly enhance protections for children entering into those homes.

The Office proposes to amend N.J.A.C. 10:121A-5.6(a) to remove reference to telephone and in person contacts, as there are additional forms of communication. The rule now includes that contacts are documented regardless of method of contact to be clear on what the Office expects.

The Office is proposing to amend N.J.A.C. 10:121A-5.6(e)1 to expand and clarify when in-person contacts can be conducted on the same day. Under the proposed amendments, joint interviews with adoptive applicants as a couple could now be held on the same day as separate individual interviews.

At N.J.A.C. 10:121A-5.6(e)1i and (s), the Office is replacing "adoptive parents" with "adoptive applicants." At N.J.A.C. 10:121A-5.6(f)9, the Office is replacing "parents" with "adoptive applicants" and "their" with "his or her." Based on the definitions, "adoptive applicants" is accurate.

The term "birth family" is proposed for deletion from N.J.A.C. 10:121A-5.6(f)18, as the term "birth family" is used throughout the rule to refer to the family of origin of the adopted child. The Office has added language to clarify that this paragraph refers to the family of origin of the adoptive applicant to avoid confusion.

The Office is removing "or worked" from N.J.A.C. 10:121A-5.6(h)2, and (i). Other states do not honor requests for Criminal History Record Information (CHRI) background checks if a person only worked in that state and did not live there.

The Office is correcting a cross-reference within existing N.J.A.C. 10:121A-5.6(l)2 from "(g)8 above" to "(g)7 above."

As CARI background checks are no longer done by the Office, the Office is proposed to be replaced with the Department (at N.J.A.C. 10:121A-5.6(n)1), under whose authority CARI background checks are now completed.

N.J.A.C. 10:121A-5.6(n)5 is amended to remove "or worked" to comply with the procedures in 42 U.S.C. § 671(a)(20)(B). While 42 U.S.C. § 671(a)(20)(B) applies only to children eligible for adoption subsidy through Title IV-E of the Social Security Act, this standardizes the practice of obtaining CARI checks from other states.

The Office is correcting a grammatical error at N.J.A.C. 10:121A-5.6(q). The sentence should state "... he or she works ..." rather than "... they work ..."

Proposed new N.J.A.C. 10:121A-5.7(b)4 requires that the agency give adoptive parents information about access to the child's original birth certificate and how to obtain information from the Department of Health pursuant to N.J.S.A. 26:8-40.33, effective January 1, 2017. The Office

believes that this new information is important for all adoptive parents to have.

At N.J.A.C. 10:121A-5.8(a), the Office proposes to delete the reference to home study requirements, which are not addressed at N.J.A.C. 10:121A-3.6(d)14.

The Office proposes to amend N.J.A.C. 10:121A-5.8(a)1iii to remove inapplicable statutory references and require that each school aged child is in compliance with the compulsory education laws of the State.

Proposed new N.J.A.C. 10:121A-5.8(b) addresses situations of delay in interstate adoptions. The Office believes it is necessary to provide regulatory guidance regarding the agency's actions in these situations. Existing N.J.A.C. 10:121A-5.8(a)2 and 3 are recodified as subsections (c) and (d).

The Office proposes to amend recodified N.J.A.C. 10:121A-5.8(e) to require that consents are not signed until all required supervision visits have occurred. The cross-references are updated, due to recodifications discussed above. The Office is also requiring the agency to try to secure an out-of-State adoptive family's agreement to comply with New Jersey's post-placement visitation schedule when it exceeds that of the other state. The Office believes that this continued agency support contributes to successful adoptions.

New requirements for completing a search are proposed at N.J.A.C. 10:121A-5.10(c)1. New technologies to access telephone listings are added and the use of telephone books is removed. These listings are more advanced methods of finding someone.

The existing chapter is summarized as follows:

N.J.A.C. 10:121A-1.1 states the scope of the chapter.

N.J.A.C. 10:121A-1.2 states the purpose of the chapter.

N.J.A.C. 10:121A-1.3 states the implementation and enforcement responsibility for the chapter.

N.J.A.C. 10:121A-1.4 states the authority to provide adoption services.

N.J.A.C. 10:121A-1.5 states adoption definitions for the chapter.

N.J.A.C. 10:121A-1.6 states other definitions for the chapter.

N.J.A.C. 10:121A-1.7 states compliance requirements with State laws.

N.J.A.C. 10:121A-1.8 states who is eligible and not eligible for a certificate of approval.

N.J.A.C. 10:121A-2.1 states the application procedures.

N.J.A.C. 10:121A-2.2 states the procedures for issuing a certificate of approval.

N.J.A.C. 10:121A-2.3 states when an application may be denied and when a certificate of approval may be suspended, revoked, or refused renewal.

N.J.A.C. 10:121A-2.4 states information on administrative hearings.

N.J.A.C. 10:121A-2.5 states when the Department may institute court action.

N.J.A.C. 10:121A-2.6 states complaint procedures.

N.J.A.C. 10:121A-2.7 states the public access to the Office of Licensing's records.

N.J.A.C. 10:121A-3.1 states the requirements for governing boards for private adoption agencies.

N.J.A.C. 10:121A-3.2 states the advisory board requirements for public agencies.

N.J.A.C. 10:121A-3.3 states agencies' legal responsibilities.

N.J.A.C. 10:121A-3.4 states the information that must be provided to the birth parents and adoptive parents.

N.J.A.C. 10:121A-3.5 states the agencies' reporting requirements.

N.J.A.C. 10:121A-3.6 states the agencies' recordkeeping requirements.

N.J.A.C. 10:121A-3.7 states the requirements for the agencies' office.

N.J.A.C. 10:121A-4.1 states the general personnel requirements for an adoption agency.

N.J.A.C. 10:121A-4.2 states the personnel policies required for adoption agencies.

N.J.A.C. 10:121A-4.3 states the staff development requirements for adoption agencies.

N.J.A.C. 10:121A-4.4 states the staff duties and qualifications for adoption agencies.

N.J.A.C. 10:121A-4.5 states requirements for Criminal History Record Information background checks.

N.J.A.C. 10:121A-4.6 states requirements for Child Abuse Record Information background checks.

N.J.A.C. 10:121A-4.7 states the background check procedures for New Jersey agencies.

N.J.A.C. 10:121A-4.8 states the background check procedures for out-of-State agencies.

N.J.A.C. 10:121A-5.1 states the services that may be provided by the agency.

N.J.A.C. 10:121A-5.2 states the general requirements for services.

N.J.A.C. 10:121A-5.3 states fees and fiscal practices for an agency.

N.J.A.C. 10:121A-5.4 states the services provided to birth parents.

N.J.A.C. 10:121A-5.5 states the preplacement services provided to the child.

N.J.A.C. 10:121A-5.6 states the home study services provided by the agency.

N.J.A.C. 10:121A-5.7 states placement services provided by the agency.

N.J.A.C. 10:121A-5.8 states the post-placement services offered by the agency.

N.J.A.C. 10:121A-5.9 states the post-adoption services provided by the agency.

N.J.A.C. 10:121A-5.10 establishes rules for searches for relatives.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements in accordance with N.J.A.C. 1:30-3.3(a)5.

Social Impact

The Office anticipates that the rules proposed for readoption with amendments and recodifications will have a positive social impact on the 46 adoption agencies regulated by this chapter and on the children, birth parents, adoptive parents, and adult adoptees who use the services of the adoption agencies. There are 22 certified adoption agencies in New Jersey and 24 in other states. The health, safety, and well-being of the children handled by the adoption agencies are protected by the comprehensive inspection and approval process carried out by the Office.

Economic Impact

The rules proposed for readoption with amendments and recodifications have a significant impact on the adoption agencies which are certified under this chapter. The rules have numerous requirements that cost the agencies money, including staff and office space.

The rules' economic impact on adoptive parents is that they regulate information about fees that the agency must share with them. They also require that adoptive parents pay a fee for each criminal history background check and child abuse record information check.

The rules regulate the services and payments that a birth mother may receive from the agency, as well as requiring certain notifications to the birth mother regarding services or payments.

These rules impact the budget of the Department, as they assist the Department, as a certified adoption agency, to meet the requirements of Title IV-E of the Social Security Act, 42 U.S.C. § 671(a). The Fiscal Year 2016 Title IV-E appropriation is \$157,461,000.

Federal Standards Statement

The rules proposed for readoption with amendments and recodifications reflect requirements of Title IV-E of the Social Security Act, 42 U.S.C. § 671(a), for children eligible for Title IV-E whose adoptions are handled by a public child welfare agency or whose adoptions are handled by a private agency and receive adoption subsidy payments through the Division of Child Protection and Permanency. These requirements include subsections (8), (18), (20), and (31). The State is required to restrict the disclosure of certain information, not deny or delay the opportunity to become an adoptive parent, or for a child to be placed for adoption due to race, color, or national origin, complete criminal records and child abuse records checks and make reasonable efforts to place siblings together or provide for frequent sibling visitation or interaction. In addition, the rules support the Indian Child Welfare Act, 25 U.S.C. §§ 1902 et seq., which requires that Indian children are placed in adoptive homes that reflect the unique values of Indian culture.

Jobs Impact

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

Agriculture Industry Impact

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

Regulatory Flexibility Analysis

The regulated adoption agencies are considered to be small businesses under the terms of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. There are 22 regulated adoption agencies in New Jersey and 24 agencies located out-of-State, as of September, 2015. The rules proposed for readoption with amendments and recodifications impose extensive reporting, recordkeeping, and other compliance requirements equally on these agencies.

N.J.A.C. 10:121A-3.6 contains recordkeeping requirements.

N.J.A.C. 10:121A-3.5 addresses reporting requirements for each adoption agency. The reporting requirements do not specify the need for specific professional services.

The use of professional services is required at N.J.A.C. 10:121A-4.4. The executive director or administrator, social work supervisor, and social worker must be full-time employees and meet specified education and licensing standards. Each agency must also have staff members or consultants to provide medical, legal, psychiatric, psychological, and other professional services, who must meet the licensing, certification, or practice requirements established for their professions. Paying for these staff members and consultants constitutes a large portion of an agency's budget. These professionals are necessary to arrange safe and successful adoptions. Allowing an agency to use consultants to provide certain services lets the agencies save money, as they do not have to employ full-time staff, which are not needed.

The Office has made no distinction between the requirements for small businesses and those of other businesses, as all of the adoption agencies are small businesses. These requirements are held to be necessary to protect the health, safety, and welfare of children being placed for adoption.

Housing Affordability Impact Analysis

The Office does not anticipate that the rules proposed for readoption with amendments and recodifications will have any impact on the affordability of housing or on the average costs of housing because the rules pertain to the licensing of adoption agencies.

Smart Growth Development Impact Analysis

The rules proposed for adoption with amendments and recodifications 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 because the rules pertain to the licensing of adoption agencies.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:121A.

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

SUBCHAPTER 1. GENERAL PROVISIONS

(**Agency Note:** N.J.A.C. 10:121A-1.1 is proposed for recodification with amendments as N.J.A.C. 10:121A-1.2.)

10:121A-[1.2]1.1 (No change in text.)

10:121A-[1.1]1.2 Scope

This chapter constitutes comprehensive rules governing the certification of adoption agencies pursuant to [the State Adoption Law (N.J.S.A. 9:3-37 et seq.)].

10:121A-1.3 Implementation and enforcement responsibility;
information

The Office of Licensing of the New Jersey Department of Children and Families shall be responsible for implementing and enforcing this

chapter. For further information or technical assistance in understanding and/or complying with this chapter, please contact:

Office of Licensing
Department of Children and Families
PO Box 717
Trenton, New Jersey 08625-0717
(609) 826-3999 or (877) 667-9845

10:121A-1.4 [Legal authority] **Authority to provide adoption services**

[(a) This chapter is promulgated pursuant to the State Adoption Law (N.J.S.A. 9:3-37 et seq.), N.J.S.A. 30:1A-1 et seq., and 30:4C-4(b).]

[(b)] (a) Under [the State Adoption Law] **N.J.S.A. 9:3-37 et seq.**, all private and public adoption agencies, both within New Jersey and outside the State that [are involved in the placement of children for adoption] **provide adoption services** in New Jersey, must be certified by the New Jersey Department of Children and Families in order to open and operate. **This requirement shall not be construed to require certification of adoption agencies located outside the State in the following situations:**

1. **The out-of-State agency has a cooperative agreement with a New Jersey certified agency to provide the adoption services in New Jersey as specified at N.J.A.C. 10:121A-3.3(c); or**

2. **The out-of-State agency is facilitating the interstate adoption of a New Jersey-born child, provided that no legal proceedings occur in New Jersey and that the agency:**

- i. **Maintains no physical presence in New Jersey;**
- ii. **Provides no adoption services in New Jersey and such services are not required; and**
- iii. **Fully complies with all laws governing such practice, including licensure requirements, in the jurisdiction into which the child is being placed.**

Recodify existing (c) and (d) as (b) and (c) (No change in text.)

10:121A-1.5 [Definition and types] **Types of adoptions**

(a) "Adoption" means the legal transfer of all parental rights and responsibilities from [the] **each** birth [and/or] **and** legal parent(s) to another person who desires to assume those rights and responsibilities.

(b) Adoptions that are subject to the provisions of this [manual] **chapter** are classified as follows:

1. (No change.)
2. "Foreign adoption" is the adoption of a child who resides in a country other than the United States of America. An agency shall comply with the requirements of the Federal Immigration and Naturalization Act (P.L. 95-417), and any successor or amending legislation regarding the classification of an alien orphan child as an immediate relative for purposes of an immigration visa; **shall comply with the Intercountry Adoption Universal Accreditation Act of 2012, 42 U.S.C. §§ 14922 et seq.**; and shall comply with each country's supervision and visitation requirements and relevant requirements of the Hague Convention on Intercountry Adoption when the child has entered the United States with the adoptive family;
3. "Identified adoption" or "**private adoption**" is an adoption where the agency becomes involved in providing services to [a] **each** birth parent[(s) or], legal parent[(s)] [and/ or a] **and** prospective adoptive parent[(s)] who is considering a plan to place the child for adoption in the prospective adoptive parent's home;
4. (No change.)
5. "Stepparent adoption" is an adoption of a child [from a former marriage] by the birth parent's current [husband or wife] **spouse**; and
6. (No change.)

10:121A-1.6 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

...
"Adoption agency" or "agency" means a Department-certified public or private [non-profit corporation] **entity** organized for all or part of its purpose to provide adoption services to children, adoptees, [adoption] **adoptive** applicants, [and] birth **parents**, [and/or] **or** adoptive parents. [Adoption services may include: pre-placement, home study, placement,

post-placement or post-adoption services or other related activities, including those requested by courts and other adoption agencies and organizations, whether or not the agencies and organizations are certified in New Jersey.

“Adoption applicant” means a prospective adoptive parent who has applied to adopt a child but who has not yet received a child for adoption placement.]

“Adoption Complaint Investigation” means an investigation ordered by the court to determine the circumstances of a non-agency placement and to assess the suitability of the prospective adoptive parents. The investigation is conducted by a court-appointed State-approved adoption agency in response to the filing of an adoption petition on behalf of the prospective adoptive parents. Such investigation includes a home study and [post-adoption] **post-placement** services unless otherwise specified by the court.

“Adoption services” means services related to the preparation, execution, and finalization of an adoption in New Jersey, including, but not limited to, pre-placement, home study, placement, post-placement, or post-adoption services or other related activities, including those requested by courts and other adoption agencies and organizations, whether or not the agencies and organizations are certified in New Jersey.

“Adoptive applicant” means a prospective adoptive parent who has applied to adopt a child but who has not yet received a child for adoption placement.

...

[“Chapter” means the rules contained in the Manual of Requirements for Adoption Agencies, as specified in N.J.A.C. 10:121A-1.1 through 5.10.]

...

“Commissioner” means the Commissioner of the Department of Children and Families.

...

“Denial of a certificate” means the withholding of a certificate of approval for which an agency has applied, based on the agency’s failure or inability to comply with requirements of [the State Adoption Law and/or] **N.J.S.A. 9:3-37 et seq.**, or of this chapter.

...

“Finalization” means the entry of a legal order of adoption issued by a court of competent jurisdiction, pursuant to N.J.S.A. 9:3-[38]37 et seq.

...

“Intermediary” means any person, firm, partnership, corporation, association, [or] agency, or **adoption facilitator**, whether located in New Jersey or not, who acts for, [or] between, or on behalf of any parent and any prospective adoptive parent [or acts on behalf of either in connection with a placement for adoption of the parent’s child. An intermediary shall not receive money or other valuable consideration in connection with the placement of a child for adoption, pursuant to the State Adoption Law (N.J.S.A. 9:3-37)].

...

“Private and professional setting” refers to a location conducive to quiet conversation and affording confidentiality during verbal discussions.

“Referring agency” means an agency or organization with [whom] **which** a New Jersey-certified agency has a written agreement regarding the provision of adoption-related services in New Jersey.

“Revocation of a certificate” means a rescinding of an agency’s current certificate to operate because of the agency’s failure or refusal to comply with the requirements of [the State Adoption Law and/or] **N.J.S.A. 9:3-37 et seq.**, or of this chapter.

“Satellite office” means an office that is utilized by, but is geographically separated from, a Department-certified adoption agency and lacks its own certification.

...

“Social worker” means a professional staff member of an agency who possesses the required qualifications specified in this chapter and who works directly with children, adoptees, birth [and/or] **parents**, or adoptive parents and other relevant individuals.

“Social work supervisor” means a staff member of an agency who possesses the qualifications specified in this chapter and who supervises

the professional staff who work directly with children, adoptees, birth [and/or] **parents**, or adoptive parents and other relevant individuals.

“Staff member” means any person employed by or working for or with an agency on a regularly scheduled basis, whether for compensation or not. This shall include full-time, part-time, voluntary, substitute, contract or consulting personnel, **and paid and unpaid individuals utilized by the agency to provide temporary foster care for children.**

[“State Adoption Law” means N.J.S.A. 9:3-37 et seq., the statutes that New Jersey certified adoption agencies must comply with and authorizes this chapter, which provides rules to ensure the protection of children, legal rights of children and birth and adoptive parents who receive adoption services, as well as establishing requirements of agency organization and administration, professional training, experience, practices and requirements relating to the responsibility of adoption agencies providing adoption services in New Jersey.

“Substantial compliance” means compliance by an agency that does not meet all applicable requirements of the law and of this chapter, when there is no serious or imminent hazard to the health, safety or well-being of the children, birth parents, adoptive parents or adoptive applicants served by the agency.]

“Subsidy” means the financial or other material support provided directly or made available to an adoptive family to assist in the adoptive placement, legal expenses of adoption, [and/or] or continuing care of a child placed for adoption.

...

10:121A-1.7 Compliance with State laws

(a) Any adoption agency whose principal office is located outside of this State shall be licensed, certified, or otherwise [approved] **legally permitted** to operate in the state or country where the agency’s principal office is located as a condition of applying for, securing, and maintaining a certificate of approval in New Jersey.

(b) (No change.)

(c) [Pursuant to 42 U.S.C. § 671(a)(18), as amended by Pub. L. 104-188, the Small Business Job Protection Act of 1996, Section 1808, no] **No** certified adoption agency shall deny to any person the opportunity to become an adoptive or foster parent on the basis of the race, color, or national origin of the child involved; or delay or deny the placement of a child for adoption or into foster care, or otherwise discriminate in making a placement decision on the basis of the race, color, or national origin of the adoptive or foster parent or the child involved.

(d) Each adoption agency shall have a written non-discrimination policy in accordance with (b) and (c) above.

10:121A-1.8 Eligibility for a certificate of approval

(a) Any public or private [non-profit] firm, partnership, corporation, association, or agency located within or outside the State of New Jersey that provides adoption services to families in New Jersey or to children from New Jersey, whether as part or all of its function, shall secure and maintain a certificate of approval. [Adoption services shall include any one or combination of the following:

1. Pre-placement services for children;
2. Home studies;
3. Placement services;
4. Post-placement services; and/or
5. Post-adoption services.]

(b) The following are not subject to certification requirements under the law:

1. (No change.)
2. Self-help or support groups that operate independent of an agency and provide adoption-related information [and/ or] or supportive peer assistance to members;
3. (No change.)
4. Agencies, organizations, or independent professionals that do not place children for adoption, but provide social work services, mental health, family services, or similar services, to the general public, including adoptive families who may choose to use their services; [and]
5. Unpaid intermediaries, as specified in N.J.A.C. 10:121A-1.6[.];
- 6. Providers of commercial services that are not used primarily for or represented as facilitating the adoption of children, including**

general-interest advertising, transportation, communication, and medical services; and

7. Out-of-State agencies operating as specified at N.J.A.C. 10:121A-1.4(a)1 and 2.

SUBCHAPTER 2. CERTIFICATION PROCEDURES

10:121A-2.1 Application for a certificate of approval

(a) An organization interested in providing any kind of adoption service shall first secure a certificate of approval from the Department, pursuant to the requirements of [the State Adoption Law and of] this chapter. Operation of an adoption agency without a valid certificate, as required by law, constitutes a crime of the [third] **second** degree, pursuant to N.J.S.A. 9:3-[39]**39.1.d**.

(b) (No change.)

(c) An applicant for a new certificate shall submit to the Office of Licensing a written plan for the agency's operation that includes the following:

1.-4. (No change.)

5. A budget and financial plan, including actual [and/or] **or** projected statement of revenues and expenses, documentation of sufficient resources to support agency operations, general/comprehensive liability insurance coverage for agency operations, and a listing of fees for service;

6.-7. (No change.)

8. A copy of the agency's non-discrimination policy, as specified in N.J.A.C. 10:121A-1.7[(b), and approved by the agency's governing board];

9. (No change.)

10. For agencies located outside of New Jersey, a copy of that agency's most current licensing or approval inspection report and the license or certificate that reflects the agency's licensing or approval status in that state [and documentation that indicates that the agency has been in operation for at least two years] **or country or a statement indicating that the relevant state or country does not require licensure or approval for the provision of adoption services.**

(d) (No change.)

10:121A-2.2 Issuance of a certificate of approval

(a) The Office of Licensing shall review the application for a certificate and shall conduct one or more field visits to in-State agencies and, at its discretion, conduct one or more field visits to out-of-State agencies to ensure that the agency is in compliance with all requirements of [the State Adoption Law,] N.J.S.A. 9:3-37 et seq., and [of] this chapter.

(b) After the Office of Licensing conducts an initial inspection of a new agency and finds the agency to be in substantial or full compliance with [the State Adoption Law and] this chapter, the Office shall issue a certificate of approval.

(c) (No change.)

(d) If the Office of Licensing determines that the agency cannot be issued a certificate of approval [because there is a serious or imminent hazard to the health, safety or well-being of the children, birth parents, adoptive parents or adoptive applicants being served by the agency], the Office shall provide written notification to the agency indicating the steps the agency must take to secure a certificate of approval, if applicable.

(e) Each certification period shall be two years.

1. (No change.)

2. In determining the expiration date of a renewed certificate, the Office of Licensing shall compute the two-year certification period from the date on which the agency's previous certificate expired. [If, however, the agency has ceased to operate for a period of six months following the expiration date of its previous certificate, the Office shall compute the date of expiration from the date of issuance of a new certificate.]

(f)-(h) (No change.)

(i) The Office of Licensing shall not issue a certificate to an out-of-State agency unless the agency has received a license or approval from that state's authorized licensing or regulatory agency and has been in operation for at least two years.]

10:121A-2.3 Denying, suspending, revoking, or refusing to renew a certificate of approval

(a) The Office of Licensing may deny, suspend, revoke, or refuse to renew an adoption agency's certificate for good cause, including, but not limited to, the following:

1. Failure to comply with requirements of [the State Adoption Law and of] this chapter;

2.-4. (No change.)

5. Refusal to permit an authorized representative of the Department to gain access to the agency during normal operating hours. An authorized representative includes:

i.-ii. (No change.)

iii. The Commissioner or his or her designee; **and**

[iv. The Commissioner of the Department or his designee; and]

[v.] **iv.** (No change in text.)

[6. Any activity, policy or conduct that adversely affects or is deemed by the Office of Licensing to be detrimental to the families and children being served, including, but not limited to violations of the requirements of N.J.S.A. 9:3-37 et seq., the State Adoption Law, N.J.S.A. 9:23-5 et seq., the Interstate Compact on the Placement of Children, N.J.S.A. 9:6-8.9, 8.10, 8.13 and 8.14, State child abuse laws, and this chapter;]

[7.] **6.** Failure of an out-of-State agency to maintain a **required** license, approval, or certificate in its own state **or country**;

[8. Failure to employ the necessary qualified professional staff, as specified in N.J.A.C. 10:121A-4.4;]

[9.] **7.** Failure by the agency or **executive** director to secure and to maintain on file documentation from the Department showing compliance with criminal conviction disclosures, [as specified in N.J.A.C. 10:121A-4.2(a), Criminal History Record Information background checks,] as specified in N.J.A.C. 10:121A-4.5, or Child Abuse Record Information background checks, as specified in N.J.A.C. 10:121A-4.6;

[10.] **8.** Refusal by the **executive** director to consent to or cooperate in a Criminal History Record Information background check or Child Abuse Record Information background check for himself or herself;

[11.] **9.** Refusal by the **executive** director to terminate the employment of a staff member who refuses to consent to or cooperate in a Criminal History Record Information background check or Child Abuse Record Information background check;

[12.] **10.** Refusal by the **executive** director to terminate the employment of a staff member when an allegation of child abuse or neglect has been substantiated against the staff member;

[13.] **11.** Refusal by the **executive** director to terminate the employment of a staff member convicted of a crime or offense requiring disqualification, as specified in N.J.A.C. 10:121A-4.5[(e)];

[14.] **12.** A substantiated allegation of child abuse or neglect against the **executive** director; and

[15.] **13.** [Conviction by the director for] **The executive director's conviction** of a crime or offense requiring disqualification, as specified in N.J.A.C. 10:121A-4.5[(e)].

(b) If an agency's certificate is suspended, the Office of Licensing shall issue or reinstate the agency's certificate once the agency achieves compliance with the requirements of [the State Adoption Law and of] this chapter. In such a case, the Office shall not require the agency to submit a new application for a certificate unless such reapplication is expressly made a condition of the issuance or reinstatement of the certificate.

(c) (No change.)

(d) If the Office of Licensing denies, revokes, or refuses to renew an agency's certificate of approval, and the reason(s) for the denial, revocation, or refusal have been resolved, the agency [may] **must** reapply to the Office for a certificate in order to secure a new certificate prior to resuming operations.

(e)-(f) (No change.)

10:121A-2.5 Court action

(a) The Department may institute a civil action in a court of competent jurisdiction for injunctive relief to enjoin the operation of an adoption agency for good cause, including, but not limited to, the following:

1. (No change.)

2. Repeated violations of the requirements of [the State Adoption Law or of] this chapter; or

3. Opening and operating an adoption agency without a certificate or without complying with the requirements of [the State Adoption Law or of] this chapter.

10:121A-2.6 Complaints

(a) Whenever the Office of Licensing receives a report [questioning the certification status or compliance of an adoption agency with requirements of the State Adoption Law or] alleging violations of this chapter by [the] **an adoption** agency, the Office of Licensing shall ensure that the allegation is investigated to determine whether the complaint is substantiated.

(b) The Office of Licensing shall notify the complainant and the agency in writing of the results of the complaint investigation after the report of the investigation has been finalized. Such notification shall include the results of the investigation, pursuant to [the State Public Records Act [(N.J.S.A. [27:1A]47:1A-1 et seq.)], commonly known as the State Right to Know Law and the Open Public Records Act [(N.J.S.A. 47:1A-1 et seq.)], except that any information [not permitted to be disclosed under the Child Abuse and Neglect Law (N.J.S.A. 9:6-8 et seq.), the State Adoption Law or other law prohibiting such disclosure] **otherwise prohibited from disclosure by law** shall be withheld.

(c) Any individual filing a complaint may do so anonymously. If the complainant reveals his or her identity, the name of the complainant, together with a description of the complaint and its status, shall be included in the Office of Licensing's records and shall be available for public review upon completion of the investigation, pursuant to [the State Public Records Law and the Open Public Records Act,] **N.J.S.A. 47:1A-1 et seq.**, except that any information [not permitted to be disclosed under the Child Abuse and Neglect Law, the State Adoption Law or other law prohibiting such disclosure] **otherwise prohibited from disclosure by law** shall be withheld.

(d)-(f) (No change.)

10:121A-2.7 Public access to Office of Licensing records

(a) (No change.)

(b) The Office of Licensing shall make the following items in the files open to public review:

1.-3. (No change.)

4. Program evaluation, inspection, and violation reports where applicable, reflecting results of Office of Licensing inspections [and/or] **and** reinspections of the agency;

5.-8. (No change.)

9. Completed complaint investigation reports, except for child abuse [and/or] **or** neglect investigations or other information [restricted by the requirements of the State Adoption Law or any other State laws] **that cannot be legally disclosed to the public**; and

10. Any other documents, materials, reports, [and/or] **and** correspondence that would normally be included as part of the public record.

(c) The Office of Licensing shall keep confidential and not part of the public record the following:

1. Records, reports, or correspondence that pertain to child abuse and/or neglect investigations involving children placed or supervised by the agency that are restricted from public access under the requirements of the [Child Abuse and Neglect Law] **state's child abuse and neglect laws**;

2. Records, reports, correspondence, or forms containing names and/or any other identifying information pertaining to children, birth parent(s), or adoptive parent(s) that are restricted from public access under the sealed records requirements of [the State Adoption Law] **N.J.S.A. 9:3-37 et seq.**;

3.-6. (No change.)

[(d) Office of Licensing records shall be available for public inspection at the Office during regular business hours. Copies of these records shall be available for purchase in accordance with the public records copy fee schedule set forth at N.J.S.A. 47:1A-2.]

SUBCHAPTER 3. ADMINISTRATION

10:121A-3.1 Governing board requirements for private agencies

(a) (No change.)

(b) The governing board shall establish policies pertaining, but not limited, to:

1.-2. (No change.)

3. [Fiscal] **Annual reviews of fiscal** operations, including **bank account records, expenditures**, budget and resource development, and fund raising.

i.-ii. (No change.)

(c) (No change.)

(d) The governing board shall have written provisions guiding its composition, including provisions for representation of a variety of community interests, **fiscal expertise**, and for time-limited terms of office for board members.

(e)-(g) (No change.)

(h) Each member of the governing board shall:

1. Be of good character, as evidenced by the agency's application for certification[, as specified at] **in accordance with** N.J.A.C. 10:121A-2.1(c), and administrative records, as specified at N.J.A.C. 10:121A-3.6(g); and

2. (No change.)

(i) (No change.)

10:121A-3.3 Legal responsibilities

(a)-(b) (No change.)

(c) A New Jersey-certified agency may [provide services for] **work cooperatively with** an out-of-State agency only if:

1. The New Jersey-certified agency verifies that the out-of-State agency is licensed, certified, or approved **as required** in the state **or country** where the [agency's principal office is located and is a non-profit agency if it places children in New Jersey for adoption or placing a child in a state other than New Jersey] **adoption services are provided or where the child will be placed**;

2. Both agencies execute a written cooperative agreement [that has been approved by the Office of Licensing]; and

3. Both agencies develop a written plan **detailed in the cooperative agreement** that:

i. States which agency shall have legal custody of the child;

[i.] **ii. Defines** financial and social work responsibilities before, during, and after the placement of each child; **and**

[ii. States that the out-of-State agency shall be financially responsible for any child placed in New Jersey until and unless the child's adoption has been finalized or the child has reached the age of majority or has been removed from New Jersey. This requirement shall not affect an out-of-State agency's responsibility for providing subsidy payments to the child subsequent to finalization of the adoption or to the child's reaching the age of majority; or an out-of-State agency's voluntary agreement to assume financial responsibility after finalization of the adoption or until the child's reaching the age of majority; and

iii. States that the New Jersey-certified agency shall be financially responsible for any child placed in a state other than New Jersey until and unless the child's adoption has been finalized or the child has reached the age of majority or has been removed from that state. This requirement shall not affect the New Jersey-certified agency's responsibility for providing subsidy payments to the child subsequent to finalization of the adoption or to the child's reaching the age of majority; or the New Jersey-certified agency's voluntary agreement to assume financial responsibility after finalization of the adoption or until the child's reaching the age of majority.]

iii. Defines, in case of disruption before the child's adoption has been finalized, which agency maintains custody of the child, is responsible for securing a new placement for the child, and how the child will be transported to the new placement.

(d) A New Jersey-certified agency may work with an intermediary only if the agency verifies that the intermediary does not receive money or other valuable consideration in connection with the placement of a child for adoption, pursuant to [the State Adoption Law (N.J.S.A. 9:3-37).] **N.J.S.A. 9:3-39.1. This shall not prohibit the receipt of payment for services rendered prior to the contemplation of the placement of a**

non-New Jersey child in New Jersey if the intermediary services were legally permissible at the time and place rendered and compliant with Federal law, inclusive of treaty obligations.

10:121A-3.4 Information to parents and [adoption] **adoptive** applicants

(a) (No change.)

(b) The written statement or pamphlet shall contain the following information:

1. That the agency is required to be certified by the New Jersey Department of Children and Families pursuant to [the State Adoption Law (N.J.S.A. 9:3-37 et seq.)];

2. That the agency is required by law to comply with all applicable requirements of this chapter[.];

3. That the agency shall make a current copy of [the Manual of Requirements for Adoption Agencies] **this chapter** available for review by the parents of children served by the agency;

4. (No change.)

5. That any parent may secure a copy of [the Manual of Requirements for Adoption Agencies] **this chapter** by contacting the Office of Licensing, Department of Children and Families[. The Office will charge a nominal fee for the manual, in keeping with Department policy];

6. That when so requested by parents of children served by the agency, the agency shall make available for review the Office of Licensing's certification records and any Inspection or Violation Reports on the agency, except for those records prohibited from disclosure, pursuant to [the State Child Abuse and Neglect Law (N.J.S.A. 9:6-[8.10(a)])] **8.10a** and [to] any other laws prohibiting such disclosure;

7. That any person who has reasonable cause to believe that a child being served by the agency has been or is being subjected to any form of child abuse or neglect or exploitation by any person, whether working at the agency or not, shall report such allegations to the Department of Children and Families' toll-free hotline, 1-877-NJ-ABUSE (652-2873), pursuant to [the State Child Abuse and Neglect Law (N.J.S.A. 9:6-[8.1)] **8.8** et seq.[)] **and to the child abuse reporting hotline in the state where the child is located.** Such reports may be made anonymously;

8. That parents may secure information about child abuse and neglect [by contacting the Office of Communication and Legislation,] **in New Jersey online from the Department of Children and Families at www.nj.gov/dcf/reporting**;

9. That the agency shall cooperate with the adoptive parents and/or the attorney retained by the adoptive parents in providing all financial information needed for the finalization report pursuant to [the State Adoption Law (N.J.S.A. 9:3-37 et seq.)]; and

10. (No change.)

(c) When a child has been identified by the agency as having a disability or suspected disability and services have not been arranged, the agency shall inform the parent(s) of their child's right to special educational and medical services and shall refer the parent(s) to:

1. The [toll-free telephone number of the] New Jersey Department of Education, [Regional Curriculum Services Unit (currently 1-800-322-8174 in New Jersey and (908) 390-6030 out-of-state)] **Office of Special Education Programs, or the equivalent office in the state where the child lives,** for a possible comprehensive evaluation and individual service plan for the child; and

2. The New Jersey Department of Health [and Senior Services], Division of [Local and Community] **Family Health Services, Special Child Health and Early Intervention Services** [Program (currently (609) 292-5676)], **or the equivalent office in the state where the child lives,** for a possible comprehensive medical evaluation for the child.

10:121A-3.5 Reporting requirements

(a) The agency shall orally notify the Department of Children and Families' toll-free hotline, 1-877-NJ-ABUSE (652-2873), immediately, whenever there is any allegation received by the agency or other reasonable cause to believe that a child under the supervision or care of the agency has been or is being abused or neglected by any person, pursuant to [the State Child Abuse and Neglect Law (N.J.S.A. 9:6-8.9, 8.10, 8.13, and 8.14)]. [1.] The agency shall notify the Office of Licensing of these allegations, as well as of any other allegations that were made by other parties and came to the agency's attention.

[2. The Department shall make copies of the child abuse law and information about the law available, upon request, through its Office of Communication and Legislation, PO Box 717, Trenton, New Jersey 08625-0717.]

(b)-(g) (No change.)

10:121A-3.6 Agency records

(a) The agency shall [ensure that the following general requirements are met]:

1. [The agency shall keep] **Keep** all **active** records on file at the **certified agency office or certified branch office** but may store files that are not currently active in a secure facility, with confidential files under lock and key, provided that the records can be accessed in a reasonable amount of time, if needed.

2. [The agency shall make] **Make** all records available for inspection **within a reasonable amount of time** by authorized representatives, as specified in N.J.A.C. 10:121A-2.3(a)[5]4.

3. [The agency shall ensure] **Ensure** that all entries in the child, adoptive family, birth family, and personnel records indicate the name of the individual making the entry, the date of the entry, and that all entries are signed by that individual.

4. [The agency shall maintain] **Maintain** the confidentiality of all information in all client case records, including those of the child, birth parents, foster parents, adoptive parents, adult adoptees, and all other persons residing in the adoptive parents' home, except by court order, as specified in this chapter or by written consent of the specific party.

i.-v. (No change.)

(b)-(c) (No change.)

(d) An agency shall maintain case records for each child served and for his or her birth family for 99 years. Certified agencies that work with referring agencies or intermediaries shall make efforts to obtain background information for birth family and child records. These records shall include:

1.-3. (No change.)

4. [Date] **Summary of how the child and adoptive applicant match was made and date of placement and finalization of the adoption;**

5.-13. (No change.)

14. A signed agreement by the **adoptive** applicant(s) to notify the agency at the time the family is matched with a birth mother for possible placement of her child or when a child is received in the home for adoption through a source other than a certified agency, so that the supervision of the child can begin. This supervision shall be done by the same agency that conducted the home study. However, at the request of the adoptive applicant(s), the case may be transferred to another certified agency, provided both agencies agree to the transfer; and

15. A signed agreement by the **adoptive** applicant(s) to provide the agency with an itemized statement of all costs paid and unpaid, and copies of receipts for all costs paid by the **adoptive** applicant(s) in connection with the adoption, including any adoption-related expenses paid prior to agency involvement.

(e) The agency shall maintain records of home studies of adoptive applicants, who have had a child placed for adoption, for 99 years. These records shall include:

1.-7. (No change.)

8. A record of each child being placed in the adoptive home, including the full name, **summary of how the child was matched with the adoptive family,** date of placement, supervisory reports covering the child's and family's adjustment, summary report of placement and recommendation, date and place of finalization, **and a** record of any contact with the agency after finalization, including updated addresses and telephone numbers.

(f)-(h) (No change.)

(i) The agency shall maintain personnel records on all agency personnel, including paid staff members employed by the agency, paid consultants who provide contracted services, and volunteers and students who have direct contact with clients.

1. The personnel record shall include the following information for each staff member:

i.-iv. (No change.)

v. A description of any adoption-related [training/development] **training and development** received;
vi.-vii. (No change.)
2.-3. (No change.)

10:121A-3.7 Office facilities

(a) (No change.)
(b) The agency shall provide equipment storage space and furnishings necessary to implement the activities of the adoption program at its office facilities.
(c) The agency shall have the telephone number for the agency office listed in the public telephone directory.]
[(d)] (b) (No change in text.)

SUBCHAPTER 4. PERSONNEL

10:121A-4.1 General requirements

(a) (No change.)
(b) An agency shall have at least three full-time staff members or their equivalents in part-time staff members, as specified in N.J.A.C. 10:121A-4.4(a) through (c). Staff members as specified at N.J.A.C. 10:121A-4.4(a) and (b) [and] shall be available at the agency during regular business hours.
1.-2. (No change.)
(c) The executive director or administrator and every staff member shall:
1. Be of good character, as evidenced by the agency's application for certification, [as specified] in **accordance with** N.J.A.C. 10:121A-2.1(c), and personnel records, as specified in N.J.A.C. 10:121A-3.6(i);
2.-4. (No change.)
(d) (No change.)

10:121A-4.2 Personnel policies

[(a)] The agency shall require all applicants for employment to disclose criminal convictions in writing. Evidence of conviction of a crime, in itself, shall not automatically preclude an individual from working in the agency and shall not automatically result in the removal or termination of a director or staff member from his or her position or job. Such determinations shall be made on a case-by-case basis, in keeping with the provisions of the State Rehabilitated Convicted Offenders Act (N.J.S.A. 2A:168A-1 et seq.). The agency shall maintain evidence of compliance with requirements for criminal conviction disclosures on file.]
[(b)] (a) The agency shall develop and maintain on file current written personnel policies and make them available to all staff members. The personnel policies shall be reviewed annually and updated every three years by the agency. The personnel policies shall include:
1.-2. (No change.)
3. Procedures for handling staff member complaints or grievances; [and]
4. Provisions for responding to any staff member misconduct that constitutes criminal, unethical, or unprofessional behavior, including sanctions that may be taken by the agency when a staff member fails to notify the agency of a criminal conviction or engages in conduct inappropriate to the purposes of the agency[.]; **and**

5. A conflict of interest statement indicating the agency shall not use any business that is owned or operated by an employee or in which an employee has a financial interest and shall not use the services of an employee unless the agency can document that the goods or services were obtained at a competitive price.

[(c)] (b) The agency shall ensure that any staff member or consultant that utilizes the title or designation of social worker, licensed clinical social worker, licensed social worker, certified social worker, medical social worker, social work technician, or any other title or designation that includes the words social worker or social work, or any abbreviations such as SW, LCSW, LSW, CSW, or SWT is certified or licensed pursuant to N.J.S.A. 45:15BB-1 et seq., [the Social Workers Licensing Act of 1991.] unless the individual is exempt from certification or licensure as specified in N.J.S.A. 45:15BB-5, **or is employed by an out-of-State agency and not providing social work services in New Jersey or to clients in New Jersey.**

[(d)] All new in-State agencies prior to receiving a certificate shall ensure that social work staff and social work supervisors are certified or licensed pursuant to (c) above.]
[(e)] (c) (No change in text.)

10:121A-4.3 Staff development

(a) (No change.)
(b) The agency shall prepare and maintain on file a written staff development program plan. The plan shall specify major content areas to be covered and agency policy regarding requirements for staff development.
1. (No change.)
2. The agency shall make staff members aware of specific requirements of [the State Adoption Law and of] this chapter that affect the performance of their duties.
3. The agency shall make staff members aware of the [Child Abuse and Neglect Law] **state's child abuse and neglect laws** and shall provide for the training of its staff members in reporting procedures under this law.
4. The agency shall provide training to staff members and ensure they are aware of recognizing and preventing child sex and labor trafficking.

10:121A-4.4 Staff qualifications and duties

(a) The executive director or administrator shall work for the agency on a full-time basis (at least 30 hours per week) and have the qualifications and responsibilities as specified below.
1. The executive director or administrator of the agency shall:
i.-ii. (No change.)
iii. For public agencies, meet the New Jersey [State Department of Personnel] **Civil Service Commission** requirements for the title used for the function of executive director or administrator of the agency.
2. (No change.)
(b) The social work supervisor shall work for the agency on a full-time basis (at least 30 hours per week) and have the qualifications and responsibilities as specified below.
1. A social work supervisor shall:
i.-ii. (No change.)
iii. For public agencies, meet the New Jersey [State Department of Personnel] **Civil Service Commission** requirements for the title.
2. (No change.)
3. The social work supervisor shall not act as a caseload carrying social worker.
(c) A social worker and/or a staff member who provides social work services shall work for the agency on a full-time basis (at least 30 hours per week) and have the qualifications and responsibilities as specified below. The agency may choose to utilize part-time staff members in lieu of one full-time staff member, provided that these staff members have the qualifications and responsibilities as specified in (c)1 and 2 below.
1. Each social worker and each staff member who provides social work services shall either:
i.-ii. (No change.)
iii. For public agencies, meet the New Jersey [State Department of Personnel] **Civil Service Commission** requirements for the title.
2. (No change.)
(d) (No change.)
[(e)] The agency shall employ secretarial and other support staff to perform reception, clerical, recordkeeping, bookkeeping and related services necessary to comply with the requirements of this chapter.]
Recodify existing (f) and (g) as (e) **and** (f) (No change in text.)

10:121A-4.5 Criminal History Record Information (CHRI) background checks

(a) As a condition of securing and maintaining a certificate, the agency shall ensure that a State and Federal CHRI fingerprint background check, in keeping with [P.L. 2008, c. 114] **N.J.S.A. 9:3-37 et seq.**, is completed for the **executive** director and each staff member.
1. If the **executive** director refuses to consent to or cooperate in a CHRI background check, the Department shall deny, suspend, revoke, or refuse to renew the certificate, as applicable. The agency may appeal the

denial, suspension, revocation, or refusal to renew, as specified in N.J.A.C. 10:121A-[2.3]2.4.

2. (No change.)

(b) If any person identified in (a) above has a record of criminal conviction, the Department [of Children and Families] **or its designee** shall review the record with respect to the type and date of the criminal offense and make a determination as to the suitability of the person to administer or work at the agency.

(c) A person shall be disqualified from administering or working at the agency, if that person ever committed a crime that resulted in a conviction for:

1.-5. (No change.)

6. Stalking pursuant to [section 1 of P.L. 1992, c. 209 (N.J.S.A. 2C:12-10)];

7. Kidnapping and related offenses including criminal restraint, false imprisonment, interference with custody, criminal coercion, or enticing a child into a motor vehicle, structure, or isolated area pursuant to N.J.S.A. 2C:13-1 through 5 and [section 1 of P.L. 1993, c. 291 (N.J.S.A. 2C:13-6)];

8.-11. (No change.)

12. Domestic violence pursuant to [P.L. 1991, c. 261 (N.J.S.A. 2C:25-17 et seq.)];

13.-15. (No change.)

(d) As an exception to (c) above, the Department may approve the employment at, or administration of, an agency by an individual convicted of a crime specified in (c) above, if all of the following conditions are met:

1. The Department determines that the crime does not relate adversely to the position the individual is employed in pursuant to [the provisions of P.L. 1968, c. 282 (N.J.S.A. 2A:168A-1 et seq.)];

2. The conviction is not related to a crime committed against a child[, as specified in (c) above];

3.-5. (No change.)

(e) [For crimes and offenses other than those cited in (c) above, an] **An** individual may be eligible to administer or work at the agency if the individual has affirmatively demonstrated to the Department clear and convincing evidence of rehabilitation.

1. (No change.)

2. Upon receipt of documentation submitted by the agency, indicating why the individual at issue should not be precluded from administering[,] **or** working [or residing at the agency], the Department, after assessing the facts on a case-by-case basis, shall make the final determination regarding the individual's rehabilitation, in keeping with the provisions of the State Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq.

3. The Department shall make the final determination regarding the suitability of the **executive** director of an agency with a criminal conviction other than those cited in (c) above.

4. For a current or prospective staff member with a criminal conviction other than those cited in (c) above, the **executive** director of the agency or the agency's board of directors shall make a determination regarding the individual's suitability upon the Department's determination that the individual has affirmatively demonstrated rehabilitation.

(f) If the **executive** director of an agency **or member of the governing board** has knowledge that any individual specified in (a) above has criminal charges pending against the individual, the **executive** director **or board member** shall promptly notify the Department to determine whether or not any action concerning the individual is necessary in order to ensure the safety of the children.

(g) (No change.)

(h) Upon completion of the CHRI for an individual specified in (a) above, the Department **and/or its designee** shall notify the individual, and the agency as applicable, in writing, of the individual's qualification or disqualification for employment or service under section 4 or 5 of P.L. 2008, c. 114 (N.J.S.A. 9:3-40.5 and 9:3-40.6).

1.-4. (No change.)

5. If the disqualified individual is an agency **executive** director, the Department shall deny, suspend, revoke, or refuse to renew the certificate, as applicable.

(i) An agency that has received an employment application from an individual, or currently employs [a] **an executive** director or staff member, shall be immune from liability for acting upon or disclosing information about the disqualification or termination of that individual to another agency seeking to employ that individual, if the agency has:

1. Received notice from the Department, **its designee**, or the agency's board of directors, as applicable, that the applicant, **executive** director, or staff member has been determined by the Department or the board of directors to be disqualified from employment or service at an agency pursuant to P.L. 1968, c. 282 (N.J.S.A. 2A:168A-1 et seq.); or

2. (No change.)

(j) (No change.)

(k) Upon termination or separation of an executive director or staff member, the agency shall immediately notify the Office of Licensing.

10:121A-4.6 Child Abuse Record Information (CARI) background checks

(a) As a condition of securing and maintaining a certificate, the agency shall provide written consent to the Department from the **executive** director and each staff member for a CARI background check to be conducted.

1. If [a] **an executive** director refuses to consent to or cooperate in a CARI background check, the Department shall deny, suspend, revoke, or refuse to renew the certificate, as applicable. The agency may appeal the denial, suspension, revocation, or refusal to renew, as specified in N.J.A.C. 10:121A-[2.3]2.4.

2. (No change.)

(b) Upon receipt of written consent from an individual specified in (a) above, the Department shall conduct a search of its records to determine if an allegation of child abuse or neglect has been substantiated **against the individual**, pursuant to [section 4 of P.L. 1971, c. 437 (N.J.S.A. 9:6-8.11)], against the individual].

1. (No change.)

2. The Department may consider incidents substantiated prior to June 29, 1995, if the Department, in its judgment, determines that the perpetrator poses a risk of harm to children [in a home]. In cases involving incidents substantiated prior to June 29, 1995, in which the Department determines that the individual is disqualified, the Department shall offer the perpetrator an opportunity for a hearing to contest the substantiation **if a hearing was not previously offered**.

(c) If the Department determines that an allegation of child abuse or neglect has been substantiated against an individual specified in (a) above, the agency shall immediately terminate the individual's employment at the agency. **If the individual requests an appeal of the substantiated finding, the agency may continue the employment of the individual should the appeal be granted; however, the individual shall not be left alone with a child while the appeal is pending.**

(d) If the Department determines that an allegation of child abuse or neglect has been substantiated against [a] **an executive** director, the Department shall also deny, suspend, revoke, or refuse to renew the certificate of approval, as applicable.

1.-2. (No change.)

(e) If the Department determines that an allegation of child abuse or neglect has been substantiated against a staff member, the agency shall notify the staff member in writing that the termination of employment is based on a substantiated allegation of child abuse or neglect. If the incident was substantiated prior to June 29, 1995, the [agency] **Department** shall notify the staff member **of the substantiation** in writing **and advise** that the staff member may request a hearing to contest the substantiation.

10:121A-4.7 Background check procedures for New Jersey agencies

(a) (No change.)

(b) [Prior] **At least 45 days before but no more than 90 days prior** to [the first] **each** renewal of a certificate [on or after June 13, 2009] for an existing agency located in New Jersey, the agency shall ensure that a **new** request for a [CHRI] **CARI** background check, as specified in N.J.A.C. 10:121A-[4.5]4.6, is submitted for the **executive** director and each staff member.

[(c) Prior to each renewal of a certificate on or after June 13, 2009, for an existing agency located in New Jersey, the agency shall ensure that a

request for a CARI background check, as specified in N.J.A.C. 10:121A-4.6, is submitted for the director and each staff member.]

Recodify existing (d) and (e) as **(c) and (d)** (No change in text.)

10:121A-4.8 Background check procedures for out-of-State agencies

(a) For an agency located outside New Jersey, the agency shall ensure that the **executive** director and each applicant or staff member meet all applicable laws and regulations in that state governing criminal history record **information** background checks and child abuse record information checks that may be required as a condition of employment. **The agency shall have the results of each criminal history record information background checks conducted available for review by the Department.**

(b) In the event that criminal history record **information** background checks and child abuse record information checks are not mandated in that state **or country**, the agency shall require that the **executive** director and each applicant[,] **and** staff member make a disclosure of any criminal conviction. The results of the disclosure shall be made available to the Department, so that the Department can determine the suitability of the individual for employment or service at the agency.

(c) (No change.)

SUBCHAPTER 5. SERVICES

10:121A-5.2 General requirements

(a) (No change.)

(b) An agency shall notify adoptive applicants [and the Office of Licensing] in writing within five working days when the agency receives information that a country is suspending adoption services and shall not accept any additional clients for assignment of children from that country until such time that adoption services have been re-established.

(c) Before services are provided, an agency shall [make available] **provide** to its adult clients the following:

1.-2. (No change.)

(d) An agency that plans to place a child with an out-of-State family or to receive a child from out-of-State for placement within the State of New Jersey shall notify the **Office of Interstate Services** [Units] of the Department and shall comply with the [regulations] **laws** governing child placement in the other state, where applicable.

(e)-(i) (No change.)

10:121A-5.3 Fees and fiscal practices

(a)-(b) (No change.)

(c) The agency shall prepare and maintain on file a written schedule of all fees charged and provide a copy of the schedule to an agency client before service delivery begins. **The written schedule shall include indication that comparative fee information can be found on the Office of Licensing's website at <http://www.nj.gov/dcf/about/divisions/ol>.**

(d) The agency shall provide, as specified in N.J.A.C. 10:121A-5.2(b), information to all **adoptive** applicants on the agency's policies and procedures for the setting, collecting, waiving, and payment of fees. This shall include its policies on refunding money/fees paid by the **adoptive** applicant(s) to the agency when:

1.-3. (No change.)

4. There is a problem with the **adoptive** applicant(s), such as an illness, a divorce, a loss of job, or other circumstance which would affect the outcome of the adoption; or

5. The agency decides the **adoptive** applicant(s) is not suitable for adoption.

10:121A-5.4 Services to birth parents

(a) The agency shall document in the case record all [telephone and in-person] contacts with the birth parents, birth family members, or their legal representative that directly pertain to the adoption. All entries shall be signed by the individual making the entry and include the date of the entry.

(b) The agency shall:

1.-4. (No change.)

5. Conduct a reasonable search for the birth father, if the name of the birth father is identified and his location is not known. The agency shall **take steps including, but not limited to:**

i. [Send] **Sending** notice via regular and certified mail to the last known address of the birth father;

ii. [Inquire] **Inquiring** discreetly among any known relatives, friends, or employers of the birth father; [and]

iii. [Make] **Making** direct inquiry to public agencies that are believed to have information on the whereabouts of the birth father; **and**

iv. Utilizing available internet resources;

6.-9. (No change.)

(c) Before taking a surrender, the agency shall document that the birth parents were:

1. Provided at least three face-to-face counseling sessions conducted in a private and professional setting as specified in N.J.A.C. 10:121A-3.7[(e)](a), or at the birth parents' home, by qualified social work staff on separate days and that the birth parents were:

i.-vii. (No change.)

viii. Requested to provide an itemized statement for all adoption-related costs, if any, paid by the prospective adoptive parents prior to agency involvement in the adoption or an affidavit that no money was expended; [and]

2. Requested to sign a statement that indicates either:

i. (No change.)

ii. They refuse to participate in the counseling sessions[.]; **and**

3. Asked to sign a statement that indicates the agency explained the provisions of N.J.S.A. 26:8-40.33, which allows adoptees and other approved individuals access to original birth certificates, and advised how to obtain additional information from the Department of Health.

(d) The agency shall ensure that the birth parents understand the terms of the surrender and realize that the agency will assume custody and will have the right to consent to adoption of the child, pursuant to N.J.S.A. 9:3-41 and 30:4C-23.

1.-2. (No change.)

3. If the agency accepts a conditional surrender, the agency shall not permit any preferences stated by the surrendering parent(s) to interfere with the agency's authority and responsibility to act in the best interests of the child in selecting adoptive parents and the agency's obligation not to discriminate in the selection of adoptive parents, as specified in N.J.A.C. 10:121A-1.7(b) **and (c)**. If the agency determines that the adoptive parent(s) specified by the surrendering parent(s) [can not] **cannot** be approved, the agency shall either:

i.-ii. (No change.)

iii. If the agency [can not] **cannot** meet the provisions specified in (d)3i or ii above, initiate appropriate action through the court to determine the legal status of the child.

4.-6. (No change.)

7. A valid surrender executed in another state or foreign country by a resident of that state or country shall be deemed a valid surrender **for finalization** in this State, if taken more than 72 hours after the birth of the child.

8.-9. (No change.)

(e)-(f) (No change.)

(g) An agency that arranges for, provides directly, finances, or subsidizes the costs of adoption expenses, as specified in N.J.A.C. 10:121A-[5.8(i)1viii]**5.8(l)1viii**, of a birth mother shall comply with all of the following:

1.-3. (No change.)

10:121A-5.5 [Preplacement] **Pre-placement** services to the child

(a) The agency shall complete a comprehensive study for each child evaluated for adoption. The study shall include:

1.-7. (No change.)

(b) The agency shall provide foster care services, as necessary, to ensure the health and safety of children who are waiting for legal clearance and/or adoptive placement.

1. (No change.)

2. Before approving foster parents, the agency shall [ensure that foster parents] **conduct a home visit and prepare a comprehensive written assessment, including, but not limited to:**

i. **The name, address, age, occupation, race and ethnic background, education, and religion (if any) of all household members;**

[i.] ii. [Submit written] **Written reports of medical examinations conducted within the past calendar year for all household members. These reports shall indicate that all household members are free of communicable diseases, including results of laboratory tests or X-rays if ordered by the physician, or other medical impediments to the placement of foster children in the home;**

[ii.] iii. [Submit a] **A physician's written statement attesting that the foster parents' health status is such that they are physically capable of providing foster care services;**

[iii.] iv. [Submit three] **Three written references that shall be stored in the foster family's record; [and]**

[iv. Allow the agency to conduct a home visit so that the agency can prepare a written assessment before the home is used.]

v. **A written assessment of the family's philosophies on child rearing, discipline, parental roles, and experience with children;**

vi. **A statement of the agency's assessment of the results of State and Federal Criminal History Record Information (CHRI) fingerprint background checks, as specified in N.J.A.C. 10:121A-4.5;**

vii. **A statement of the agency's assessment of the results of the Department's Child Abuse Record Information (CARI) background checks, as specified in N.J.A.C. 10:121A-4.6; and**

viii. **Location and description of physical environment of the residence and neighborhood.**

3. **When the results of a CHRI reveal a criminal conviction, the agency shall:**

i. **Disclose the results of the CHRI only to the specific individual on whom the CHRI was conducted; and**

ii. **Disclose to the foster home applicant(s) the name of the adult residing in the applicant's home who has a criminal conviction, but not disclose to the applicant(s) any other information about the conviction.**

4. **When the results of a CARI background check reveal a substantiated incident(s) of child abuse or neglect, the agency shall:**

i. **Disclose the results of the CARI background check only to the individual identified by the Department as the perpetrator of the child abuse or neglect incident(s); and**

ii. **Disclose to the foster home applicant(s) the name of the perpetrator, if other than the applicant(s), but not disclose to the applicant(s) any other information concerning the incident.**

Recodify existing 3. and 4. as 5. and 6. (No change in text.)

(c)-(e) (No change.)

10:121A-5.6 Home study services

(a) The agency shall document in the case record all [telephone and in person] contacts with the adoptive applicant(s) or their legal representative, **regardless of method of contact**, that directly pertain to the adoption. All entries shall be signed by the individual making the entry and include the date of the entry.

(b) The agency shall:

1. Provide social work services throughout the home study to help **adoptive** applicants decide if adoption is the best plan for them;

2. (No change.)

3. Ensure that the criteria specified in (b)2 above apply equally to all **adoptive** applicants; and

4. (No change.)

(c) The agency shall ensure that each adoptive applicant:

1. Has attained the age of 18 years and is at least 10 years older than the child being adopted. If the **adoptive** applicant is not 10 years older than the child to be adopted, the agency may petition the court to waive the requirement; and

2. (No change.)

(d) The agency shall also ask **adoptive** applicants to disclose any history of child abuse or neglect or any criminal record, excluding minor traffic violations.

(e) The agency shall advise the **adoptive** applicants of the home study process, including the length of time involved. The home study process shall include the following:

1. [At] **The agency shall hold** at least three in-person contacts [that are held] on separate days [to]. **The agency shall** conduct joint and individual interviews with married **adoptive** applicants. [Individual] **The agency may conduct a joint interview and an individual interview with each spouse on the same day. The agency may count joint interviews with spouses [may be counted] as separate in-person contacts for each spouse. [Home] The agency shall conduct no more than one individual interview with an adoptive applicant in a single day. The agency may use home study groups [may be utilized and counted as one] and count each group meeting as separate in-person contacts with married adoptive applicants provided that:**

i. No more than 10 adoptive [parents] **applicants** per each group facilitator are in the group;

ii.-iii. (No change.)

2. At least one in-person contact to conduct joint and individual interviews with all members of the **adoptive** applicant's household. These contacts may be held on the same day as the contacts for the married **adoptive** applicants;

3. At least one visit to the residence of the **adoptive** applicant(s);

4. A review of the **adoptive** applicant's current job reference(s);-].

i. If the **adoptive** applicant states that a request for a current job reference will jeopardize the **adoptive** applicant's employment status, the agency shall obtain a reference from a previous employer.

ii. If a previous employer is not available, the agency shall obtain a reference from an appropriate alternative, such as a former teacher or the **adoptive** applicant's supervisor of a volunteer activity; and

5. A review of three personal references from persons unrelated to the **adoptive** applicant(s):

i. The agency shall obtain at least one reference who has known the **adoptive** applicant for five years.

ii. The agency shall obtain at least one reference from a neighbor of the **adoptive** applicant(s). However, if such a reference cannot be obtained, a second reference as specified in (e)5i above may be substituted.

iii. [Applicants] **Adoptive applicants** from the same household may obtain the same personal reference, provided that the personal reference source has knowledge of each **adoptive** applicant.

(f) The agency shall obtain information on the **adoptive** applicants. Such information shall include, but not be limited to:

1.-3. (No change.)

4. [Applicants'] **Adoptive applicants'** interests, hobbies, child caring skills, strengths and weaknesses, and how they see themselves and each other;

5. (No change.)

6. Emotional stability and maturity of the **adoptive** applicant(s), including understanding of, and ability to cope with, problems, stress, frustration, crisis, separation and loss, capacity to give and receive affection, and ability to distinguish between their needs and those of the child;

7.-8. (No change.)

9. Each [parent's] **adoptive applicant's** family life history that includes: childhood experiences, what [their] **his or her** home life was like, [their] **his or her** parents' method of discipline and handling problems, [their] **his or her** family ties, current family relationships, and relatives' attitudes towards adoption;

10. (No change.)

11. Written medical reports on each **adoptive** applicant and all other persons living in the home that include health, results of laboratory tests or X-rays if ordered by the physician, and the physician's recommendation on the **adoptive** applicant's health status, as it relates to the **adoptive** applicant's capacity to be an adoptive parent;

12.-15. (No change.)

16. Statement of income and financial resources, and a description of the **adoptive** applicant's capacity to manage finances;

17. (No change.)

18. A description of any [birth family] background problems **in each of the adoptive applicant's family of origin**, such as medical or hereditary problems, incest, mental illness, or drug use; and

19. A description of the **adoptive** applicant's capacity to make viable child care arrangements while the **adoptive** applicant(s) is employed, if relevant.

(g) As part of the home study, the agency shall obtain Criminal History Record Information (CHRI) fingerprint background checks on each adoptive applicant and all persons residing in the adoptive applicant's home who are 18 years of age or older, except as specified in (v) below. For the purposes of processing requests for CHRI fingerprint background checks, the agency shall ensure that:

1.-2. (No change.)

3. A list is maintained of all adoptive applicants and adults who reside in the **adoptive** applicant's home who are fingerprinted;

4.-5. (No change.)

6. A record of the results of the CHRI and the date the results are received by the agency is maintained in the **adoptive** applicant's case record; and

7. When the results of a CHRI reveal a criminal conviction, the agency:

i. (No change.)

ii. Discloses to the adoptive applicant(s) the name of the adult residing in the **adoptive** applicant's home who has a criminal conviction, but does not disclose to the adoptive applicant(s) any other information about the conviction.

(h) An agency providing services to an adoptive applicant residing in a state other than New Jersey shall obtain the CHRI background check for the applicant and adult members of the applicant's household from the state where the applicant resides, in lieu of obtaining a New Jersey State CHRI, provided that:

1. (No change.)

2. The agency documents that the individual never resided [or worked] in New Jersey.

(i) An agency providing services to an out-of-State resident who previously resided [or worked] in New Jersey, or to a New Jersey resident who is unable to access the electronic fingerprinting process due to illness or injury, shall obtain the CHRI background check using the fingerprint cards supplied by the Department of Children and Families.

1. (No change.)

2. The completed fingerprint cards and required fees shall be submitted to the Department [of Children and Families] **or its designee**.

(j) A public adoption agency shall disqualify an adoptive applicant if the **adoptive** applicant or any adult residing in the **adoptive** applicant's household was convicted of one of the following crimes or offenses:

1.-13. (No change.)

(k) A public adoption agency shall disqualify an adoptive applicant if the **adoptive** applicant or an adult residing in the **adoptive** applicant's household was convicted of one of the following crimes or offenses, and the date of release from confinement (the date of termination of court-ordered supervision through probation, parole, or residence in a correctional facility, whichever date occurs last) occurred within the preceding five years:

1.-6. (No change.)

(l) For a public adoption agency when the conviction is for a crime or offense other than those specified in (j) and (k) above, and for a private adoption agency for a conviction for any crime or offense, the agency shall utilize the following criteria for assessing the suitability of the adoptive applicant when the CHRI reveals a record of criminal conviction by the adoptive applicant or an adult residing in the **adoptive** applicant's household. The agency shall:

1. (No change.)

2. Discuss the circumstances of the crime with the convicted individual, in a confidential manner as specified in [(g)8] (g)7 above;

3.-7. (No change.)

(m) (No change.)

(n) The agency shall obtain Child Abuse Record Information (CARI) background checks from the [Division of Child Protection and Permanency] **Department** on each adoptive applicant and all persons residing in the adoptive applicant's home who are 18 years of age and older, except as specified in (n)5 below. The agency shall ensure that:

1. CARI background check forms supplied by the [Office of Licensing] **Department** are completed and signed by the adoptive

applicant(s) and other adult(s) residing in the adoptive applicant's home and submitted along with a fee of \$10.00 for each CARI background check, in the form of a check or money order made payable to the "Treasurer, State of New Jersey," to the address designated by the [Office of Licensing] **Department**;

2. (No change.)

3. When the results of a CARI background check reveal a substantiated incident(s) of child abuse and/or neglect, the agency:

i. (No change.)

ii. Discloses to the adoptive applicant(s) the name of the perpetrator, if other than the **adoptive** applicant(s), but does not disclose to the **adoptive** applicant(s) any other information concerning the incident;

4. (No change.)

5. For an adoptive applicant residing in a state other than New Jersey, the agency obtains a child abuse background check for the **adoptive** applicant and adult members of the **adoptive** applicant's household from the state where the **adoptive** applicant resides, in lieu of obtaining a New Jersey CARI check, provided that the agency documents that the individual never resided [or worked] in New Jersey. For individuals who previously resided [or worked] in New Jersey, the agency shall obtain both a New Jersey CARI check and a child abuse background check from the state where the **adoptive** applicant resides. For individuals who previously resided [or worked] in a state other than New Jersey and currently reside in New Jersey, the agency shall obtain both a New Jersey CARI check and a child abuse background check from the state where **the adoptive** applicant previously resided; and

6. (No change.)

(o) The CARI background checks specified in (n) above shall be valid for 12 months from the date the results are received by the agency.

1. If a child is not placed in the adoptive applicant's home within 12 months, the agency shall obtain an additional CARI background check as specified in (n)2 above, for each **adoptive** applicant and all persons residing in the **adoptive** applicant's home who are 18 years of age and older, prior to placement of a child in the adoptive applicant's home.

2. (No change.)

(p) (No change.)

(q) When an employee or consultant is adopting a child through the agency [they] **he or she** works for or provides services to, the employee or consultant shall obtain a home study from another certified agency.

(r) (No change.)

(s) After the home study has been conducted, the social worker who conducted the study and the social work supervisor shall co-sign a letter to the adoptive [parents] **applicants** or otherwise indicate in writing that the approval or rejection decision was made jointly.

1. (No change.)

2. The agency shall inform the **adoptive** applicant(s) of its decision in writing within 30 calendar days after the last contact with the **adoptive** applicant(s).

i. When an **adoptive** applicant is approved, the agency shall recommend to the **adoptive** applicant the type(s) of child(ren) who can best adjust to the family and to whom the family can best adjust. When the agency's recommendation of the type(s) of child(ren) to be considered for adoption is different from the **adoptive** applicant's initial preference for a certain type(s) of child(ren), the agency shall document in the adoptive family record the results of the discussion between the social worker and the **adoptive** applicant on this point.

ii. When the **adoptive** applicant pursues a child(ren) different from the type(s) of child(ren) recommended by the agency, the agency shall reevaluate the home study to determine if the **adoptive** applicant can be approved for the type of child he or she is seeking.

iii. When an **adoptive** applicant is not accepted, the agency shall:

(1) Explain to the **adoptive** applicant the reason(s) that a child cannot be placed with the family;

(2) Offer the **adoptive** applicant at least one in-person contact to help the **adoptive** applicant adjust to the agency's decision; and

(3) Provide the **adoptive** applicant information, both verbally and in writing, of the agency's grievance procedure.

(t) Upon receipt of a written request from adoptive applicants who have undergone a home study for a foreign adoption, the agency shall

forward to the **adoptive** applicants the home study within 30 calendar days of the request.

(u) For **adoptive** applicants who have been studied, approved, and placed on a waiting list for longer than 12 months from the time their home study was approved, the agency shall ensure that the home study is current within 12 months of the child's being placed into the home, except for home studies for foreign adoption, which may be current for 18 months of the child's being placed in the home. The updated home study shall include:

1. One or more interviews with all members of the **adoptive** applicants' household;
2. Medical reports within the past year for all members of the **adoptive** applicants' household;
3. A visit to the residence of the **adoptive** applicant(s); and
4. (No change.)

(v) For **adoptive** applicants who are being considered for adoption of one or more additional children, the agency shall:

- 1.-2. (No change.)
- (w)-(y) (No change.)

10:121A-5.7 Placement services

(a) (No change.)

(b) The agency shall provide the following information to adoptive parent(s):

1. A written history of the child, including developmental and medical history and reason(s) for surrendering the child. If the child has special needs, the agency shall provide the **adoptive** applicant(s) with an assessment of the child's long-term needs, along with written information about the availability of subsidy and a list of community resources that provide services to address the child's needs;

2. An explanation that the adoptee may ultimately wish to seek information contained in the permanent record concerning his or her birth family and may in the future attempt to contact the birth family; [and]

3. An explanation that the agency may contact the adoptive parent in the future to convey updated information about the adoptee's birth family[.]; **and**

4. An explanation of N.J.S.A. 26:8-40.33, which allows adoptees and other approved individuals to have access to original birth certificates and direction on how to obtain additional information from the Department of Health.

(c) (No change.)

10:121A-5.8 Post-placement services

(a) In keeping with the [home study and] supervision requirements specified at N.J.A.C. 10:121A-3.6(d)14, the agency shall:

1. Visit the home within 14 calendar days of the adoptive placement after the first day of placement, and document in the child's record that:
 - i.-ii. (No change.)
 - iii. School age children [have an educational plan, pursuant to N.J.S.A. 30:4C-26(c) and N.J.S.A. 18A:7B-12(a)] **are in compliance with the compulsory education requirements at N.J.S.A. 18A:7B-1 et seq.**; and
 - iv. (No change.)

(b) **For interstate adoptions when there is a delay in the adoptive family returning home with the child, the agency shall:**

1. **Maintain verbal contact with the family upon placement and visit the home within 14 calendar days of the family's return; and**
2. **Document in the child's record all required information as specified at (a)1i through iv above.**

Recodify existing 2. and 3. as (c) and (d) (No change in text.)

[(b)] (e) The agency shall ensure that consents are not signed before the completion of the six month supervision **period and all required supervision visits have occurred**, as specified in [(a)2i] (c)1 and (d)1 above[, unless the child's placement has been at least six months and the agency ensures the completion of the fourth supervision visit as scheduled]. **For adoptions finalizing in another state or country with a shorter supervision period or requiring fewer post-placement visits than New Jersey, the agency shall make and document all efforts and attempts to secure the adoptive family's agreement to comply with the New Jersey post-placement schedule.**

Recodify existing (c)-(h) as (f)-(k) (No change in text.)

[(i)] (I) The agency shall cooperate with the adoptive parents and/or the attorney, if any, retained by the adoptive parents to finalize the adoption.

1. The agency shall provide all information and documents needed to finalize the adoption pursuant to [State Adoption Law (N.J.S.A. 9:3-37 et seq.)] and shall file a written report to the court at least five calendar days before the hearing. This information shall include:

i.-vii. (No change.)

viii. An itemized statement of all fees and costs paid by the adoptive [parents] **applicants** in connection with the adoption. Such costs shall include expenses related to any of the following:

(1)-(6) (No change.)

2.-4. (No change.)

10:121A-5.9 Post-adoption services

(a) (No change.)

(b) An agency shall provide the following post-adoption services:

1. (No change.)

2. Upon request and if available, adoptive [parents] **applicants**, birth parents, and adult adoptees shall be provided with written information on the non-identifying characteristics and background of the adoptee and the adoptee's birth family. This information shall include, but not be limited to:

i.-iv. (No change.)

v. [Nationality/ethnic] **Nationality and ethnic** background;

vi.-viii. (No change.)

3. (No change.)

(c) An agency should counsel members of the birth family, adoptive family, or minor and adult adoptees in the following situations:

1. (No change.)

2. When any party involved in the adoption is having difficulty in personal [and/or] **or** social adjustment to the extent that it is related to the adoption.

(d) For a foreign adoption, as specified at N.J.A.C. 10:121A-1.5(b)2, the agency shall conduct at least one visit to the home within 30 days after the child has entered the United States with the adoptive family and shall comply with each country's supervision and visitation requirements and relevant requirements of the Hague Convention on Intercountry Adoption **and the Intercountry Adoption Universal Accreditation Act of 2012, 42 U.S.C. §§ 14922 et seq.**, when the child has entered the United States with the adoptive family.

10:121A-5.10 Searches

(a) (No change.)

(b) A search shall include, but not be limited to:

1. A review of the agency record for background information on the birth or adoptive family, including:

i. (No change.)

ii. Names of the [male/female] **male and female** members;

iii.-vi. (No change.)

vii. Names of **each** school[s and/or] **and** college[s that were] attended, if known; and

viii. (No change.)

(c) When the information in the agency record is sufficient to complete a search, the search shall also include:

1. A review of current telephone [books] **listings available in print or online** on a Statewide basis, and a review of previously published telephone [books] **listings available in print or online** on a Statewide basis, if accessible, **utilization of available internet resources**, or utilization of a telephone information service **or online person search service** provided that the adult adoptee, birth parents, or adoptive parents agree to such a service;

2. (No change.)

3. Contacting military, union, employment, [and/or] **and** club affiliation;

4.-5. (No change.)

6. Contacting the church where the adopted child was [christened/baptized] **christened or baptized**;

7.-11. (No change.)

(d) (No change.)

(e) The agency shall provide a handbook or pamphlet to each adult adoptee, birth parent, and adoptive parent that outlines the range of services that may be included in a search, the confidentiality [rights/responsibilities] **rights and responsibilities** of all parties that are involved in the search and the costs associated with the search.

(a)

CHILD PROTECTION AND PERMANENCY

Legal Guardianship

Proposed Readoption with Amendments: N.J.A.C. 10:132A

Proposed Repeals and New Rules: N.J.A.C. 10:132A-1.7 and 1.11

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

Authority: N.J.S.A. 2A:4A-20 et seq., 2A:4A-37, 30:1-14 and 15,
9:3A-7g, 9:3A-9, and 30:4C-4(d).

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

Proposal Number: PRN 2015-159.

Submit written comments by February 19, 2016, to:

Pamela Wentworth, MSW, L.S.W.
Department of Children and Families
PO Box 717
Trenton, New Jersey 08625
or
rules@dcf.state.nj.us

The agency proposal follows:

Summary

The Division of Child Protection and Permanency (“CP&P” or “Division”) proposes to readopt with amendments the rules governing Legal Guardianship, and the CP&P Kinship Legal Guardianship Subsidy Program. The rules affect children living in kinship guardianship situations, those who will enter those arrangements in the future, and the families who care for them.

N.J.A.C. 10:132A has been in effect since 2003. Amendments proposed herein allow for successor guardians are driven by Federal requirements in the Preventing Sex Trafficking and Strengthening Families Act of 2014 (Pub. L. 113-183).

Pursuant to N.J.S.A. 52:14B-5.1.c(2), N.J.A.C. 10:132A expires on April 28, 2016. The Department 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.

The Division proposes to amend language throughout the chapter to reflect that the name of the Division was changed from the Division of Youth and Family Services (DYFS) to the Division of Child Protection and Permanency (CP&P) in 2012.

The Division is proposing to define the term “agreement” in N.J.A.C. 10:132A-1.3, because the term was previously left undefined. The CP&P Kinship Legal Guardianship Subsidy Program derives significant funding from the Federal Government under Title IV-E of the Social Security Act, and many requirements applicable to the use of those funds stipulate that an agreement for participation will be entered into and satisfy specified requirements. The new successor guardian requirements also require that the name of any successor guardian be included in such an agreement.

The Division is proposing to add new N.J.A.C. 10:132A-1.6(c) and (d) to allow for the continuation of the Kinship Legal Guardianship Subsidy (KLG Subsidy) if the relative caretaker originally approved for the program dies or becomes incapacitated, and the child is placed in the care of a successor guardian named in the original agreement or an amendment to it. This provision is required as a condition of the State’s receipt of Federal funding under Title IV-E of the Social Security Act.

The Division is proposing to largely eliminate the program standards in N.J.A.C. 10:132A-1.7 and replace them with a requirement that

recipients of the KLG Subsidy meet the requirements applicable to licensed resource homes under N.J.A.C. 10:122C. This is consistent with a long-standing practice of the Division, and ensures uniformity in the standards imposed on persons providing care for children in the care and custody of the Division. Amendments are proposed to N.J.A.C. 10:132A-1.6(b)6, 1.8, and 1.9 to reflect this change, and replace references to the program standards previously included in N.J.A.C. 10:132A-1.7.

The Division is proposing to repeal existing N.J.A.C. 10:132A-1.11 on dispute resolution, and change the cross-reference at N.J.A.C. 10:132A-1.8(b)2 to instead refer to N.J.A.C. 10:120A. That chapter deals in its entirety with dispute resolution, and this change allows for the consolidation of dispute resolution rules into that single chapter. No substantive change is proposed by this to the procedures or rules governing disputes under N.J.A.C. 10:132A.

The Division is proposing new N.J.A.C. 10:132A-1.11 to articulate the duration and amount of subsidy payments provided under this chapter.

The Division is proposing to repeal N.J.A.C. 10:132A-1.11, Dispute Resolution, because it is redundant of N.J.A.C. 10:120A.

Finally, the Division is proposing changes to N.J.A.C. 10:132A-3.3 to allow for the Division to provide the courts with required kinship caregiver assessments in successor guardian situations. This change is proposed to accommodate the new Federal requirements.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements set forth at N.J.A.C. 1:30-3.2 and 3.2, in accordance with N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption with amendments, repeals, and new rules to the rules for the Legal Guardianship Subsidy Program are expected to have a positive social impact by enhancing protection and permanency for children placed with relatives by the Division. Consistent with State and Federal mandates, when a child’s parents cannot provide a safe home, the Division of Child Protection and Permanency encourages the placement of the child with relatives, rather than with foster parents unfamiliar to the child. Once the relative has cared for the child for at least one year, the rule proposed for readoption with amendments establish a program to provide financial assistance on behalf of a child whose relative makes a commitment through kinship legal guardianship to permanently care for a child when return home and adoption are not likely or feasible. The program also permits the Division to provide maintenance to children in a type of permanent placement that enables parents to retain certain rights.

The impact of the proposed amendments to the rules for each child and relative who live or move out-of-State is expected to be positive. The Division had approximately 2,000 children in the Legal Guardianship Subsidy Program in 2015. Each child has access to maintenance payments and health care coverage through the program.

The impact upon the Division is positive as the proposed amendments to the rules reflect good casework practice, as well as State and Federal mandates regarding permanency for children.

Positive reaction to the rules proposed for readoption with amendments is anticipated from relatives caring for children placed by the Division, advocacy groups representing grandparents caring for their grandchildren, child advocacy agencies, and the press.

Economic Impact

The rules proposed for readoption with amendments, repeals, and new rules have a positive economic impact on children placed with relatives by the Division and on the relatives with whom the children are placed. The legal guardian of each child approved for participation in the Legal Guardianship Subsidy Program receives an increased monthly maintenance payment on the child’s behalf. The program also ensures that the child has health care coverage.

In 2015, the Division had approximately 2,000 children receiving payments from the Legal Guardianship Subsidy Program.

The amendments to these rules allow the expenditure of maintenance payments on behalf of an additional, thought-to be small number of children living in the custody of successor guardians. Though the guardians may have previously been eligible to receive Resource Care subsidies, these amendments made pursuant to new Federal law would