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DIVISION OF CHILD PROTECTION AND PERMANENCY**Case Management****Proposed Readoption with Amendments: N.J.A.C. 10:133D**

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

Authority: N.J.S.A. 9:3A-7f, 9:6-8.15, and 30:4C-4(h) and 25.

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

Proposal Number: PRN 2016-179.

Submit written comments by January 6, 2017, to:

Debra A. Hayes
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Department of Children and Families
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The agency proposal follows:

Summary

The Division of Child Protection and Permanency (CP&P or Division) proposes to readopt with amendments the rules governing Case Management with emphasis on case plans and in-person visits. The rules affect children and families under the supervision of the Division, whether in-home or in out-of-home placement, as well as out-of-home placement providers.

Pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, N.J.A.C. 10:133D, Case Management, was scheduled to expire on September 22, 2016. As the Division submitted this notice of proposal to the Office of Administrative Law prior to that date, pursuant to N.J.S.A. 52:14B-5.1.c(2), this date is extended to March 21, 2017. The Division of Child Protection and Permanency has reviewed these rules and has determined that they continue to be necessary, proper, and reasonable for the purpose for which they were originally promulgated, as required by Executive Order No. 66 (1978).

These rules were initially adopted in 1993 and were readopted with amendments in 1998, 2004, and 2009.

The Division proposes to amend N.J.A.C. 10:133D-1.7(a)7 to omit the word "which" and add "that" to the text in order to be grammatically correct.

The Division is proposing to amend N.J.A.C. 10:133D-1.8(b) by removing language that only permits a parent(s) to receive a "modified" copy of the case plan based on his or her participation in the developing or signing of the case plan and to remove language pertaining to State and Federal confidentiality, or child protection laws. In addition, the Division proposes to add language that addresses current Division policy, which permits a parent to receive a copy of the case plan regardless of his or her involvement in the development or signing of the case plan.

The Division proposes to amend N.J.A.C. 10:133D-2.1 by removing Division of Youth and Family Services and replacing it with Division of Child Protection and Permanency to reflect the change in the agency's name on June 29, 2012, pursuant to N.J.S.A. 9:3A-9.

The Division proposes to amend N.J.A.C. 10:133D-2.3 by changing the word "parent" to "parent(s)," to include more than one parent per family. The Division also proposes to add a comma after the word "child" and remove the word "to" from the sentence in order to conform to correct grammatical standards.

The Division proposes to amend N.J.A.C. 10:133D-2.6(g) by removing the semi-colon and replacing it with a comma, in order to conform to correct grammatical standards.

The Division proposes to amend N.J.A.C. 10:133D-2.10(a)1 by adding a hyphen between the words "newly" and "opened," to correct a previous grammatical error.

The Division proposes to amend N.J.A.C. 10:133D-2.10(a)2 by adding a hyphen between the words "newly" and "assigned," to correct a previous grammatical error.

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

The existing chapter is summarized as follows:

N.J.A.C. 10:133D-1.1 states the purpose of this subchapter.

N.J.A.C. 10:133D-1.2 states the scope of the subchapter.

N.J.A.C. 10:133D-1.3 states the location of the definitions of this subchapter.

N.J.A.C. 10:133D-1.4 states when a case plan is developed.

N.J.A.C. 10:133D-1.5 states the participants in developing the case plan.

N.J.A.C. 10:133D-1.6 states the process of developing the case plan.

N.J.A.C. 10:133D-1.7 states the contents of the written case plan.

N.J.A.C. 10:133D-1.8 states the notice of the case plan.

N.J.A.C. 10:133D-2.1 states the authority of this subchapter.

N.J.A.C. 10:133D-2.2 states the purpose of this subchapter.

N.J.A.C. 10:133D-2.3 states scope of this subchapter.

N.J.A.C. 10:133D-2.4 states the location of the definitions of this subchapter.

N.J.A.C. 10:133D-2.5 states the purpose of in-person visits by the Division representative.

N.J.A.C. 10:133D-2.6 addresses establishing a schedule for in-person visits.

N.J.A.C. 10:133D-2.7 addresses in-person visitation when a child is placed out of his or her own home.

N.J.A.C. 10:133D-2.8 addresses change in placement.

N.J.A.C. 10:133D-2.9 addresses placement in a treatment-based out-of-home placement program further than 50 miles from the New Jersey State border.

N.J.A.C. 10:133D-2.10 addresses initial in-person visit.

N.J.A.C. 10:133D-2.11 addresses in-person visitation with a child alone.

Social Impact

These rules proposed for readoption with amendments affect each of the children receiving services from the Division, their families, and their out-of-home placement providers. As of June, 2016, the Division of Child Protection and Permanency had 23,953 families under supervision. There were 41,004 children receiving services, with 7,125 children in out-of-home placement. Each child receiving services must have a case plan and receive in-person visits from the Division representative.

Parents and out-of-home placement providers also receive in-person visits and participate in developing the case plan.

These rules have a positive effect on clients because they assure CP&P clients the opportunity to take part in the development of the case plan and to have regular in-person visits with the Division representative. The visits with the Division representative are extremely important as they are a primary means of communication about the progress toward meeting the case goal.

The rules continue to be necessary in order to ensure clients and out-of-home placement providers their rights to in-person visits and case plan participation.

Economic Impact

The rules have no economic impact on the clients and out-of-home placement providers that they affect.

The rules do have an ongoing effect on the Division's income. The Division receives Federal appropriations under the Federal Social Security Act. For fiscal year 2017, the Federal Title IV-E appropriation is \$168,234,000. The Federal Title IV-B appropriation for fiscal year 2017 is \$10,831,000.

These rules support Federal requirements for each child in placement to have a case plan and be reviewed by a case review system. This includes in-person visitation of children placed outside of the State. These requirements are in 42 U.S.C. §§ 622(b)(8)(A)(ii) and (17), 24(f), 675(l), 675(5)(A)(ii), (B), and (5)(E)(ii) and (iii), and 679A(6).

Federal Standards Statement

In order to receive Federal appropriations under Titles IV-B and IV-E of the Social Security Act, a state must have a state plan requiring a case plan and a case review for each child in out-of-home placement at 42 U.S.C. §§ 671(a)(16) and 622(b)(8)(A)(ii). A case review includes a case plan. The terms “case plan” and “case review system” are defined at 42 U.S.C. § 675(l) and (5).

42 U.S.C. §§ 671(a)(30)(D) and 675(8)(B)(iv)(V) require the case plan to contain information explaining a child’s medical condition if the medical condition prevents the child from attending school on a full-time basis.

42 U.S.C. § 622(b)(17) requires that the state have standards that ensure that a child in foster care is visited, at a minimum, on a monthly basis by the caseworker. This Federal requirement is supported by 42 U.S.C. §§ 624(f)(1) and 679b(6). The Division exceeds the Federal standards by mandating the initial placement of a child in foster care shall have face-to-face visits with his or her worker at least twice per month during the first two months of an initial placement, or a change of placement, and thereafter, at least once per month throughout the child’s placement. The Division is processing this standard in the rules as the Division has agreed to it in *Charlie and Nadine H., et al. v. Christopher Christie, as Governor, and Allison Blake, as Commissioner, Department of Children and Families, Sustainability and Exit Plan (Second Modified Settlement Agreement)*, United States District Court for the District of New Jersey, Civ. Action No. 99-3678 (SCR), November 4, 2015.

42 U.S.C. §§ 675(1)(D) and (5)(C)(i) require that the case plan contain a description of programs and services which will help a child aged 14 and over prepare for the transition from foster care to independent living. N.J.A.C. 10:133D-1.7(b)17 requires that this information be included in a child’s case plan beginning at age 14. The Division believes that it is important to begin this planning by age 14 in order to plan the child’s high school course work to meet his or her educational and career goals.

42 U.S.C. § 675(5)(A)(ii) requires that each child who is placed out-of-State be visited in his or her home or institution no less frequently than once every six months and that the case plan contain a report about each visit. N.J.A.C. 10:133D-2.6(d) and (e) require in-person visits once every three months. The Division believes that quarterly visits with New Jersey children placed out-of-State are crucial to implementing a permanent case goal for each child.

Jobs Impact

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

Agriculture Industry Impact

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

Regulatory Flexibility Statement

The rules proposed for readoption with amendments govern a public child protective services agency rather than a private business establishment. The rules govern case management of children and families receiving services with emphasis on case plans and out-of-home placement. The rules affect children and families under the supervision of the Division, whether in-home or in out-of-home placement, as well as out-of-home placement providers. Neither the Division, nor the Division’s clients are considered a small business as defined in N.J.S.A. 52:14B-16 et seq., the Regulatory Flexibility Act. Most of the Division’s out-of-home placement providers are not businesses; they are licensed resource parents providing care for children individually in their own homes. They are not employees of the Division; they are out-of-placement facilities that may be considered small businesses under the statutory definition, such as group homes and treatment-based out-of-home placement programs. Even though some are small businesses, the requirements of the rules do not impose reporting, recordkeeping, or compliance requirements on any out-of-home placement providers. Therefore, a regulatory flexibility analysis is not necessary. The rules proposed for readoption with amendments state the Division’s policies on case plans and in-person visits.

Housing Affordability Impact Analysis

There is an extreme unlikelihood that the rules proposed for readoption with amendments would evoke a change in the affordability of housing or the average costs associated with housing in New Jersey because the rules apply to case management for children placed with out-of-home placement providers.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments will have no impact on smart growth development 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 case management for children placed with out-of-home placement providers.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:133D.

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

SUBCHAPTER 1. CASE PLAN

10:133D-1.7 Contents of the written case plan

(a) The written case plan for a family with the child living at home shall include:

1.-6. (No change.)

7. The services or activities [which] **that** are intended to facilitate the changes and who will accomplish or provide them; and

8. (No change.)

(b)-(e) (No change.)

10:133D-1.8 Notice of the case plan

(a) (No change.)

(b) The Division representative shall give a copy of the case plan to each person who **participates in the development of or** signs the case plan, including the out-of-home placement provider, and to each parent who declines to participate in or sign the case plan. [The Division shall give a modified copy of the case plan to those who participated in developing the case plan and to each parent who declined to participate in or sign the case plan, when required by State and Federal confidentiality or child protection laws.]

SUBCHAPTER 2. IN-PERSON VISITS WITH CLIENTS AND OUT-OF-HOME PLACEMENT PROVIDERS

10:133D-2.1 Authority

N.J.S.A. 30:4C-25 requires the Division of [Youth and Family Services] **Child Protection and Permanency**, Department of Children and Families to regularly visit all children under its care, custody, and supervision.

10:133D-2.3 Scope

The provisions of this subchapter shall apply to each child receiving services from the Division, his or her parent(s), [and] each out-of-home placement provider of a Division-supervised child, and [to] the Division.

10:133D-2.6 Establishing a schedule for in-person visits

(a)-(f) (No change.)

(g) Whenever an in-person visitation schedule of once every three months has been approved under the provision of (d) above, the Division representative shall maintain monthly telephone contact between visits with all parties, as well as with collateral individuals[;], for example, school personnel.

(h) (No change.)

10:133D-2.10 Initial in-person visits

(a) In addition to the standards set by N.J.A.C. 10:133D-2.7, 2.8, and 2.9, the Division representative shall make an in-person visit with the child, the parent, and the out-of-home placement provider, if applicable, in the child’s residence within 10 working days when:

1. A Division representative is assigned to a [newly opened] **newly-opened** case; or

2. The case is transferred from one Division representative to another. In this instance, the [newly assigned] **newly-assigned** Division representative shall make the in-person visit.

EDUCATION

(a)

STATE BOARD OF EDUCATION

Controversies and Disputes

Professional Standards

State Board of Examiners and Certification

Charter Schools

School District Operations

Proposed Amendments: N.J.A.C. 6A:9-3.4; 6A:9B-12.4 and 12.5

Proposed Repeals: N.J.A.C. 6A:3-10; 6A:11-4.12 and 4.13; and 6A:32-11.6 and 12.2

Authorized By: New Jersey State Board of Education, Kimberley Harrington, Acting Commissioner, Acting Secretary.

Authority: N.J.S.A. 18A:4-15.

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

Proposal Number: PRN 2016-188.

Submit written comments by January 6, 2017, to:

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New Jersey Department of Education
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The agency proposal follows:

Summary

As part of the Department of Education's (Department) mission to allow school districts to focus on better serving and educating New Jersey students, the Department proposes to repeal and amend several regulatory provisions that are either unnecessary or duplicative. This proposal further advances the goals of deregulation established in the September 2012 Education Transformation Task Force (ETTF) report, including the removal of duplicative regulations that distract school administrators and educators from the primary responsibility of student learning.

This proposal focuses on regulatory provisions that either restate rules that are stated elsewhere in Title 6A of Administrative Code or are outdated and no longer applicable to any regulated party. Removing the unnecessary provisions will streamline the Administrative Code and make it easier for school districts to review the regulatory requirements that are pertinent to teaching and learning.

The following summarizes the proposed rulemaking:

N.J.A.C. 6A:3 Controversies and Disputes

Subchapter 10 "Abbott" Appeals

N.J.A.C. 6A:3-10.1 Appeal of Department determinations

This section requires appeals of Department determinations to be made pursuant to the provisions of applicable rules or directives of the court and to proceed in accordance with the provisions of N.J.A.C. 6A:3-1, except as otherwise required by such rules or directives.

The Department proposes to repeal N.J.A.C. 6A:3-10.1 because Abbott appeals are no longer utilized by the Department and this rule simply restates the availability for school districts to challenge a Department determination pursuant to the procedures set forth in Chapter 3.

The Department also proposes to recodify N.J.A.C. 6A:3-11, Applications for Issuance of Facilities Bonds, 6A:3-12, Requests for Recording of Judgment, and 6A:3-13, Hearings Prior to Suspension or Revocation of School Bus Driver Endorsement Pursuant to N.J.S.A. 18A:39-28 et seq., as N.J.A.C. 6A:3-10 through 12, respectively.

N.J.A.C. 6A:9 Professional Standards

Subchapter 3 Professional Standards for Teachers and Professional Standards for School Leaders

N.J.A.C. 6A:9-3.4 Professional Standards for School Leaders

This section sets forth the Professional Standards for School Leaders, which is a set of standards that identifies the knowledge, skills, and dispositions that school leaders should exhibit.

The Department proposes to replace the standards with an incorporation by reference to the Professional Standards for Educational Leaders 2015 developed by the National Policy Board for Educational Administration (NPBEA). The State's current Professional Standards for School Leaders are based on the 1996 Interstate School Leaders Licensure Consortium (ISLLC) Professional Standards, which the State adopted in 2003. The proposed professional standards are based on the 2008 ISLLC Professional Standards for School Leaders developed by ISLLC. NPBEA acquired the ISLLC standards in 2015, and updated them under the name Professional Standards for Educational Leaders 2015.

Replacing the text of the professional standards with a reference to the NPBEA Professional Standards for Educational Leaders will signify the State's desire to adopt the national standards as written and in full. The State Professional Learning Committee reviewed the revised standards and recommended the Department adopt the 2015 NPBEA standards as New Jersey's Professional Standards for School Leaders.

Expectations for educational leaders are dynamic and need to be periodically reviewed and revised by the State to incorporate new understandings. Much about the educational leadership role has changed since New Jersey adopted its current set of standards, and the revised 2015 standards are grounded in the most current knowledge based on research and practice. The revised standards reflect changing expectations for educational leaders, the complexity of the role, and a better understanding of the importance of the leader's role for improved and equitable student outcomes. The revised standards will guide leadership practice toward a holistic emphasis on learning outcomes and the conditions of community and caring that support learning outcomes, and they will inform State policies on leadership preparation, licensing, induction, professional development, and evaluation.

The Department also proposes at N.J.A.C. 6A:9B-12.4(a)2 and 12.5(a)2, (k)2ii and 3, (l)3, and (m)2 to replace references to "N.J.A.C. 6A:9-3.4(a)1 through 6" with "N.J.A.C. 6A:9-3.4" to reflect the proposed change.

N.J.A.C. 6A:11 Charter Schools

Subchapter 4 Program Implementation

N.J.A.C. 6A:11-4.12 Equity in education

This section requires charter schools to comply with all applicable laws and regulations governing equity in education including, but not limited to: N.J.S.A. 18A:36-20 and 10:5-1 et seq.; N.J.A.C. 6A:7, Managing for Equality and Equity in Education; Titles VI and VII of the Civil Rights Act of 1964 at 42 U.S.C. §§ 2000d et seq., and 2000e et seq., respectively, Title IX of the Education Amendments of 1972 at 20 U.S.C. §§ 1681 et seq., Section 504 of the Rehabilitation Act of 1973 at 29 U.S.C. § 792; the Americans with Disabilities Act of 1990 at 42 U.S.C. §§ 12101 et seq., and the Individuals with Disabilities Education Act of 2004 at 20 U.S.C. §§ 1400 et seq., and 34 CFR 300 et seq.

The Department proposes to repeal N.J.A.C. 6A:11-4.12 as this requirement is duplicative. Charter schools are included in the scope of N.J.A.C. 6A:7, Managing for Equality and Equity in Education, and N.J.A.C. 6A:7-1.1, Purpose, contains the exact language as N.J.A.C. 6A:11-4.12.