

(a)

CHILD PROTECTION AND PERMANENCY
Manual of Requirements for Resource Family
Parents

Proposed Readoption with Amendments: N.J.A.C.
3A:51

Proposed Recodification with Amendment: N.J.A.C.
3A:51-1.4 as 4.5

Proposed New Rule: N.J.A.C. 3A:51-4.3

Authorized By: Christine Norbut Beyer, M.S.W., Commissioner,
 Department of Children and Families.

Authority: N.J.S.A. 9:3A-7f, 30:4C-4(h), 30:4C-26a, and 30:4C-27.15.

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

Proposal Number: PRN 2019-034.

Submit written comments by May 17, 2019, to:

Pamela Wentworth, M.S.W., L.S.W.
 Department of Children and Families
 PO Box 717
 Trenton, New Jersey 08625
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The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 3A:51, Manual of Requirements for Resource Family Parents, was scheduled to expire on February 13, 2019. As the Division of Child Protection and Permanency (Division) has filed this notice of readoption prior to that date, that date is extended 180 days to August 12, 2019, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Division has reviewed these rules and has determined that they continue to be necessary, proper, and reasonable for the purpose for which they were originally promulgated.

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

N.J.A.C. 3A:51, Manual of Requirements for Resource Family Parents, governs the licensure of resource family parents used by the Division of Child Protection and Permanency to care for abused and neglected children. This chapter affects each resource family parent applicant and each licensed resource family parent. The chapter also affects each child placed with a resource family parent, as the chapter regulates the type and quality of care given to each child.

Pub. L. 115-123 directs the Federal Department of Health and Human Services to "identify reputable model licensing standards with respect to the licensing of foster family homes (as defined in section 472(c)1 of the Social Security Act)." The Division proposes amendments to bring the chapter into compliance with proposed National Model Foster Care Licensing Standards, proposed in the August 1, 2018, Federal Register, Vol. 83, No. 148. The State shall submit information addressing whether its licensing standards are in accord with the model standards no later than April 1, 2019. The Division proposes to amend this chapter in order to comply with the model standards.

The new standards include that the applicant: can communicate in the child's own language, must have functional literacy, and must disclose his or her mental health and substance abuse issues and his or her physical and mental health history. The requirement that children in the household must be immunized must allow an exception when a health care professional documents that immunization is contrary to the child's health. Co-sleeping between an infant and a resource parent must be prohibited. The new standards also include new requirements regarding equipment: hot tubs and spas must be included in the standard; pools must have a barrier with a device such as a bolt lock, a working pump, and filtering system; all sleeping areas of the house must have a smoke detector; and all houses must have a carbon monoxide detector on each level. Pre-service training must include specific topics, such as first aid,

cardiopulmonary resuscitation, and medication administration. Before he or she is licensed, each applicant must provide assurances covering corporal punishment, alcohol and drug use, the reasonable and prudent parent standard, and not smoking around any child in placement.

The Division is correcting punctuation throughout the rules proposed for readoption. The term "caseworker" is proposed for amendment to "worker" throughout the chapter in order to reflect the current terminology used in the Division. In addition, the term "foster" is updated to "in placement" throughout the chapter.

The Division proposes to amend N.J.A.C. 3A:51-1.2(c)2 to clarify that the Division of Children's System of Care (CSOC) is part of the Department of Children and Families (DCF) and the Division of Mental Health and Addiction Services is part of the Department of Human Services. CSOC became part of DCF when DCF was created July 1, 2006, by N.J.S.A. 9:3A-1 et seq. The name of the Division of Mental Health and Addiction Services was changed in 2011 when the Division of Mental Health and the Division of Addiction Services were merged.

At N.J.A.C. 3A:51-1.3, the definition of "case plan" is proposed for replacement to match the definition of "case plan" contained in N.J.A.C. 3A:11-1.3. The proposed definition gives more specific information on what a case plan contains, including identification of problems, services, or actions needed to resolve them, who will accomplish the actions or provide the services, and time frames for each service.

The definition of "caseworker" is proposed for deletion and a definition of "worker" is being proposed to be added.

N.J.A.C. 3A:51-1.4 is proposed for recodification to codify it in a more appropriate location in the chapter, namely N.J.A.C. 3A:51-4.5. No change is made to the text of the section.

The Division proposes new N.J.A.C. 3A:51-2.1(c)3 to allow one of two resource family parent applicants to not meet the licensing standards due to incapacity. This allows a capable applicant to apply when his or her spouse or partner is clearly unable to meet the licensing standards. This amendment allows the Division to broaden its ability to license relative and family friend homes for children in need of placement.

The Division proposes new N.J.A.C. 3A:51-2.1(d)5ix to include the resource family parent's or applicant's assurances: not to use illegal substances; abuse alcohol, legal prescription, or nonprescription drugs to excess or contrary to instructions; not to allow anyone to smoke in the presence of the child in placement; and to adhere to the reasonable and prudent parent standards. These assurances are part of the Federal model licensing standards.

The cross-references to N.J.A.C. 3A:51-1.2(b)3 in N.J.A.C. 3A:51-2.1(e) and 2.2(b) are corrected to N.J.A.C. 3A:51-1.2(b)2. The Division amended N.J.A.C. 3A:51-1.2(b) on August 21, 2017, at 49 N.J.R. 2792(a), removing N.J.A.C. 3A:51-1.2(b)2 and recodifying N.J.A.C. 3A:51-1.2(b)3 as 1.2(b)2.

The Division is proposing new N.J.A.C. 3A:51-2.2(f) to require that each resource family parent sign an agreement accepting certain roles and responsibilities. These include responsibilities required pursuant to the Code of Federal Regulations proposal at Vol. 83, No. 148, published August 1, 2018. The cross-reference to N.J.A.C. 3A:51-2.2(h) at N.J.A.C. 3A:51-3.4(e) is amended to N.J.A.C. 3A:51-2.2(i) to reflect the recodification.

The Division proposes to amend recodified N.J.A.C. 3A:51-2.2(i) to add that a resource family parent shall cooperate with the Division to amend the home study, when the resource family moves. This allows the Office of Licensing to gather the information needed to issue a new license for the new residence.

At N.J.A.C. 3A:51-2.4(b), the Division proposes to amend the licensing requirements for the renewal of a license to reflect the current practice, which is for the resource parent to submit an acceptable renewal application and pass a renewal inspection. This replaces being in compliance with the requirements of the chapter. The Division proposes new paragraph (c)5 to require an updated financial disclosure statement. This is to ensure that the resource family has adequate income to support itself without the board payments for the children in placement.

The Division proposes to add a reference this chapter, N.J.A.C. 3A:51, at N.J.A.C. 3A:51-3.2(c)2 for clarification.

The Division proposes to delete existing N.J.A.C. 3A:51-3.4(f), regarding notifying the caseworker of vacation plans. This is in line with

the reasonable and prudent parent standard, which allows resource family parents to make decisions to encourage normalcy for children in placement.

The Division proposes to delete existing N.J.A.C. 3A:51-4.1(a)2 regarding swimming pools and natural bathing areas and relocate the rule text at proposed new N.J.A.C. 3A:51-4.1(f) and (g). This is more appropriate as separate subsections, rather than included as a physical facility. In addition, the Division proposes new N.J.A.C. 3A:51-4.1(f)3 and 4 and (h) to match the suggested Federal regulations. The barrier to a swimming pool or natural bathing area would need to have a safety device and a hot tub or spa would need a locked safety cover when not in use. Unless a pool can be emptied after each use, the Division proposes that it will need a working pump and filtering system.

The Division proposes to delete N.J.A.C. 3A:51-4.1(b)5 and relocate the information to N.J.A.C. 3A:51-4.1(a)2, as the subject of telephones is more properly addressed as a physical facility requirement.

The Division proposes new N.J.A.C. 3A:51-4.1(a)3, 4, 5, and 6 governing the use of cameras, recording devices, and monitoring devices. While these devices are allowable, the Division wants to make sure that they do not infringe on the legitimate privacy concerns of any child in placement.

Existing N.J.A.C. 3A:51-4.1(b)7, 9, 10, and 11 are proposed for relocation as N.J.A.C. 3A:51-4.1(b)4, 1, 2, and 3, respectively, without any substantive change. Existing N.J.A.C. 3A:51-4.3(a)4 and 5 are proposed to be relocated to N.J.A.C. 3A:51-4.1(c)3ii and 4, as information about fireplaces, electric space heaters, and wood burning stoves fits better with information on heating requirements. Additionally, the Division is proposing new N.J.A.C. 3A:51-4.1(c)3iii, requiring steam and hot water pipes and radiators to be protected. This is to ensure the safety of children placed in the resource family home.

At N.J.A.C. 3A:51-4.2(a)1, the Division proposes an exception to the requirement that each bedroom shall have two means of exit, one of which leads directly outside. The exception is that the building's certificate of occupancy identifies the room as a bedroom since that means that adequate egress has been verified. This expands the pool of potential resource family homes.

The Division proposes to amend N.J.A.C. 3A:51-4.2(a)2 to clarify that the bed, bassinet, or crib is age appropriate for the child in placement. The Division also proposes a new sentence that a child in placement shall not share a bed with either another child or an adult, in order to protect the child's safety and privacy. This requirement is in line with Federal recommendations.

The Division proposes new N.J.A.C. 3A:51-4.3 to prohibit a child in placement from sharing a bedroom with another child of the opposite sex, unless this is in the child's best interest, in order to protect the child in placement's privacy and safety.

Recodified N.J.A.C. 3A:51-4.4(a)1 is proposed for amendment to correct grammar. In addition, new N.J.A.C. 3A:51-4.4(a)1ii is proposed to require a smoke detector adjacent to each sleeping area in order to comply with the proposed Federal standards.

The Division proposes to amend recodified N.J.A.C. 3A:51-4.4(a)7 and add a new paragraph (a)8 to contain the proposed Federal standards regarding carbon monoxide detectors and fire extinguishers. In addition to having carbon monoxide detectors adjacent to each bedroom area, they will also be required on each floor of the home. Under the proposed amendments, they will be required for every resource family home, not just those with fuel-burning appliances or with attached garages used for motor vehicles. Further, the Division is proposing that each resource family home has an accessible, fully-charged fire extinguisher.

The Division proposes to amend N.J.A.C. 3A:51-5.1(a)1, 2, and 3 refer to resource family applicants, as well as resource family parents. Additional personal requirements to mirror the proposed Federal regulations are proposed as new N.J.A.C. 3A:51-5.1(a)2iii and iv. These require disclosure of current mental health and substance use issues, as well as physical health, mental health, and substance use history by both applicants and resource family parents.

Proposed new N.J.A.C. 3A:51-5.1(a)4, 5, and 6 require the ability to communicate with each child in placement, the ability to communicate in English, and functional literacy to bring New Jersey into line with the proposed Federal regulations.

N.J.A.C. 3A:51-5.2(e) is proposed for amendment to clarify that the Division is evaluating the applicant's child's adjustment to school or child care. The term "day care" is changed to "child care" to follow the current terminology in used in N.J.A.C. 3A:52 and 54.

The Division proposes to amend N.J.A.C. 3A:51-5.3(a)1ii to correct the name of the United States Immigration and Naturalization Service to the United States Citizenship and Immigration Service, as a result of a Federal reorganization in 2003.

N.J.A.C. 3A:51-5.4(a)7xiii, 8vi, 9, and 10 are proposed for amendment to update cross-references. The Division amended N.J.A.C. 3A:51-5.4(a) (then-codified as N.J.A.C. 10:122C-5.4(a)) as part of its readoption, effective March 19, 2012. See 44 N.J.R. 670(a). Part of the amendment was to add additional paragraphs and recodify the remaining paragraphs. Internal references were not corrected at the time and have been corrected in this proposal.

At N.J.A.C. 3A:51-5.5(a)2, the cross-reference to N.J.A.C. 3A:51-2.5 is proposed for amendment to N.J.A.C. 3A:51-2.6. The Division added a new section and recodified Subchapter 2 in 2009, and neglected to correct the citation at N.J.A.C. 3A:51-5.5(a)2. See 41 N.J.R. 612(a).

The Division proposes to change the word "substantiated" to "responsible" at N.J.A.C. 3A:51-5.5(b)1. In 2013, the Division added a finding of "established" at N.J.A.C. 3A:10, therefore, the Division has two potential findings for when abuse or neglect occurs, "substantiated" and "established." The Division does not automatically deny, suspend, revoke, or refuse to renew a license for people with an established finding. The word "substantiated" is clearer than "responsible."

The Division proposes new N.J.A.C. 3A:51-5.6(a)2 to include pre-service training topics stated in the proposed Federal regulations. These are new topics that will be added to the current curriculum.

The Division proposes to delete N.J.A.C. 3A:51-5.6(c). It is unnecessary because a new resource family member requires the issuing of a new license and would, therefore, have to meet the requirements of paragraph (a)1.

In accordance with the proposed Federal regulations, the Division proposes to add new N.J.A.C. 3A:51-6.1(a)5 to prohibit the use of cameras to supervise children in placement, unless it is directed by a physician as medically necessary.

The Division is proposing to amend N.J.A.C. 3A:51-6.2(b)2 i and ii to include that the child in placement shall not have to pay for telephone calls to the worker or law guardian and shall have adequate privacy in which to conduct them. This brings subparagraphs (b)2i and ii in line with paragraph (b)2, which requires that a child in placement have access to call his or her worker and law guardian.

N.J.A.C. 3A:51-6.2(b)3 and (c) are proposed for amendment to include other forms of communication in addition to the telephone. Access to communication by children in placement with parents and friends is required with restrictions. This allows access to other common forms of communication, such as e-mail and texting.

The Division proposed to amend N.J.A.C. 3A:51-7.1. 7.3, and 7.4 to distinguish the resource family parent's health care responsibilities for children in placement who are under 18 years of age and those who are 18 years of age and older. Those placed in a resource family home who are 18 years and over are responsible for their own health care, unless the child in placement's case plan states that the resource family parent is responsible. This is in accordance with the prudent parenting standard at 42 U.S.C. § 671(a)(24) and as defined at 42 U.S.C. § 675(10)(A).

In accordance with the standards proposed in the Code of Federal Regulations on August 1, 2018, the Division proposes new N.J.A.C. 3A:51-7.1(a)3iii. This would allow an exemption from immunizations for children living in a resource family home who are not in placement through the Division if immunization is contrary to the child's health as documented by a physician or advanced practice nurse.

In order to comply with the proposed Federal regulations, the Division proposes to amend N.J.A.C. 3A:51-7.2(a)3 to require a smoke-free environment for each child in placement. This is an expansion of the current requirement that all indoor areas of the home and all vehicles that the child in placement rides in be smoke-free.

In addition to limiting the resource family parent's responsibility to dispose of expired medications and prescriptions for each child in placement to those who are under age 18, the Division also proposes to

amend N.J.A.C. 3A:51-7.3(b) to clarify that this requirement applies to all expired medication and prescriptions and to all medications and prescriptions that are no longer in use.

A summary of the rules proposed for readoption follows:

N.J.A.C. 3A:51-1.1 states the legal authority of the chapter.

N.J.A.C. 3A:51-1.2 states the scope of the chapter.

N.J.A.C. 3A:51-1.3 states the definitions used in the chapter.

N.J.A.C. 3A:51-1.4 states the capacity limits for children placed with resource family parents.

N.J.A.C. 3A:51-1.5 states the requirements for compliance for levels I and II.

N.J.A.C. 3A:51-1.6 states the non-discrimination statement in regard to resource family parents.

N.J.A.C. 3A:51-2.1 states the application process for a license.

N.J.A.C. 3A:51-2.2 states the procedures for issuing the license.

N.J.A.C. 3A:51-2.3 states the annual inspection requirements.

N.J.A.C. 3A:51-2.4 states the requirements for the renewal of a license.

N.J.A.C. 3A:51-2.5 states the requirements for denying, suspending, revoking, or refusing to renew a license.

N.J.A.C. 3A:51-2.6 states information related to administrative hearings on the denial, suspension, revocation, or refusal to renew a license.

N.J.A.C. 3A:51-2.7 states the procedures followed when a complaint is received about a resource family parent or applicant.

N.J.A.C. 3A:51-3.1 states the rights of children in placement.

N.J.A.C. 3A:51-3.2 states what records must be maintained by a resource family parent.

N.J.A.C. 3A:51-3.3 states the Department's and the resource family parent's responsibilities regarding the confidentiality of records.

N.J.A.C. 3A:51-3.4 states the resource family parent's requirements to report to the Department.

N.J.A.C. 3A:51-4.1 states the physical facility and maintenance requirements for the resource family home and property.

N.J.A.C. 3A:51-4.2 states the bedroom requirements.

N.J.A.C. 3A:51-4.3 states the emergency evacuation, medical emergency, and fire prevention requirements.

N.J.A.C. 3A:51-5.1 states the resource family parent's general personal requirements.

N.J.A.C. 3A:51-5.2 states what references are necessary.

N.J.A.C. 3A:51-5.3 states the home study requirements.

N.J.A.C. 3A:51-5.4 states the requirements for criminal history record information background checks.

N.J.A.C. 3A:51-5.5 states the requirements for child abuse record information background checks.

N.J.A.C. 3A:51-5.6 states the training requirements for resource family parents.

N.J.A.C. 3A:51-6.1 states the requirements for the resource family parent's supervision of a child in placement.

N.J.A.C. 3A:51-6.2 states the resource family parent's responsibilities regarding the child in placement's visitation and communication with family members and friends.

N.J.A.C. 3A:51-6.3 states the resource family parent's responsibilities regarding the child in placement's education.

N.J.A.C. 3A:51-6.4 states the resource family parent's responsibilities regarding the child in placement's recreation.

N.J.A.C. 3A:51-6.5 states the resource family parent's responsibilities regarding the child in placement's religion.

N.J.A.C. 3A:51-6.6 states the resource family parent's responsibilities regarding food and nutrition for a child in placement.

N.J.A.C. 3A:51-6.7 states the resource family parent's responsibilities regarding pets in the home.

N.J.A.C. 3A:51-6.8 states the resource family parent's responsibilities regarding discipline and control of a child in placement.

N.J.A.C. 3A:51-6.9 states the resource family parent's responsibilities regarding firearms and weapons.

N.J.A.C. 3A:51-6.10 states the resource family parent's responsibilities regarding a child in placement's clothing.

N.J.A.C. 3A:51-7.1 states the resource family parent's responsibilities regarding health care and medical treatment for a child in placement.

N.J.A.C. 3A:51-7.2 states the general health practices to be maintained for a child in placement.

N.J.A.C. 3A:51-7.3 states the resource family parent's responsibilities regarding prescription and non-prescription medication.

N.J.A.C. 3A:51-7.4 states the resource family parent's responsibilities regarding psychotropic medication for a child in placement.

N.J.A.C. 3A:51-7.5 states the resource family parent's responsibilities for a child in placement's personal care and hygiene.

N.J.A.C. 3A:51-7.6 states the resource family parent's responsibilities regarding environmental sanitation and hygiene.

N.J.A.C. 3A:51-8.1 states the resource family parent's responsibilities regarding transportation and vehicle safety requirements.

Social Impact

The impact of the rules proposed for readoption with amendments and a new rule is to protect children placed with resource family parents and to allow them to live in a family environment when they are prevented from living in their own homes. The rules ensure a child in placement's safety, health, and well-being by setting standards that the resource family parent must meet to obtain and retain a license.

Additionally, the rules proposed for readoption with amendments and a new rule increase the opportunity of children to attain permanency by allowing relatives, family friends, and others to be licensed and to adopt or become a child's kinship legal guardian.

The rules proposed for readoption with amendments and a new rule also protect the confidentiality of all records pertaining to the licensing of a resource family home, as well as those pertaining to children in placement. This confidentiality requirement encourages people to become resource family parents, as their personal information will be private.

The Division does not anticipate that the rules proposed for readoption with amendments and a new rule will have any negative consequences for the children and resource family parents.

The Division anticipates a positive response to the rules proposed for readoption with amendments and a new rule.

As of November 18, 2018, there were 4,266 licensed resource homes and 1,065 pending applications from those wanting to become a resource family parent. As of October 2018, there were 3,190 children placed with non-kin resource family parents and 2,186 children placed with kin resource family parents. Each of these persons is affected by the rules proposed for readoption with amendments and a new rule.

Economic Impact

The Division anticipates little economic impact on applicants or licensed resource family parents. The rules proposed for readoption with amendments and a new rule may require some expenses for the applicant or resource family parent to become licensed or to maintain his or her license. New requirements include requiring a fire extinguisher, additional smoke detectors, and carbon monoxide detectors, all of which are modestly priced. Each applicant will need to be trained in child first aid and cardiopulmonary resuscitation. For those who have a swimming pool, spa, or hot tub, there are new requirements that the pool's pump and filtration system works and that there are locked safety devices for pools, hot tubs, and spas. The Department believes that these expenditures are necessary to improve safety for children in placement and to meet Federal standards related to payments from Title IV-E of the Social Security Act. Licensed resource family parents receive ongoing board subsidy payments from the Division upon placement of a child.

The Division's fiscal year 2019 Title IV-E appropriation is \$176,957,000.

Federal Standards Statement

The rules proposed for readoption with amendments and a new rule are subject to, but do not exceed, any Federal standards. The amendments help the State of New Jersey to meet Federal standards at 42 U.S.C. §§ 671(a)(10), (11), (24), (36); 675(1), (5), and (10); and 675a(3). Overall, this chapter supports and does not exceed the requirements of Title IV-E of the Social Security Act.

Jobs Impact

The rules proposed for readoption with amendments and a new rule are expected to have no impact on jobs to be generated or lost as a result of this rule promulgation.

Agriculture Industry Impact

The rules proposed for readoption with amendments and a new rule will have no impact on the agriculture industry.

Regulatory Flexibility Statement

Resource family parents who are licensed by the Division are not considered small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments and a new rule have no impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules pertain to the Department's resource family parent licensing program.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments and a new rule have no impact on housing production 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 Division's resource family parent licensing program.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Division has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 3A:51.

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

SUBCHAPTER 1. GENERAL PROVISIONS

3A:51-1.2 Scope

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

(c) The provisions of this chapter shall not apply to a person who:

1. (No change.)

2. Provides care exclusively for children under the auspices of the Division of Children's System of Care **in the Department** or the Division of Mental Health and Addiction Services of the Department of Human Services; or

3. Operates a children's group home, treatment home, teaching family home, alternative care home, supervised transitional living home, or shelter home that provides room, board, care, shelter, or treatment services for children on a 24-hour-a-day basis.

3A:51-1.3 Definitions

(a) (No change.)

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

["Case plan" means a specific plan developed for a child receiving services from the Department, which defines and guides case activities to maintain or achieve an appropriate permanency goal.

"Caseworker" means a representative of the Division having supervision of a child in placement.]

"Case plan" means a written statement of the Division's intervention on behalf of a child, which includes identification of the problems that necessitate Division involvement with the family, the services or actions needed, who will accomplish or provide them, and the planned time frame for providing each service.

...
 "Substantial compliance" means compliance by a resource family parent or applicant who 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, well-being, or rights of the children served, and the

resource family parent or applicant is in full compliance with level I requirements.

...

"Worker" means a representative of the Division having supervision of a child in placement.

(Agency Note: The text of N.J.A.C. 3A:51-1.4 is proposed for recodification with amendments as N.J.A.C. 3A:51-4.5.)

Recodify existing 3A:51-1.5 and 1.6 as **1.4 and 1.5** (No change in text.)

SUBCHAPTER 2. LICENSING PROCEDURES

3A:51-2.1 Application for a license

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

(c) If there is more than one resource family parent applicant in the household, the applicants shall submit a single application for a single license.

1.-2. (No change.)

3. The requirement in (c)2 above for both applicants to meet the licensing requirements may be waived if a physician certifies that one of the applicants is incapable of being a caregiver due to a medical condition that does not place any child in placement at possible risk of harm.

(d) The applicant shall cooperate with the Department in the completion of all components of the application and home study process within the time limits established by the Department. The components of the application and home study process for an initial license shall include:

1.-4. (No change.)

5. Completion and submission by the applicant of the following:

i.-vii. (No change.)

viii. An agreement not to use unacceptable methods of discipline, including corporal punishment, hitting and shaking, abusive language, ridicule, humiliation, other forms of degradation, deprivation of meals or sleep, forcing a child to do strenuous physical work or exercise, denying the child communication or mail, removing or threatening to remove the child from the home, denying or threatening to deny family visits, or denying the child access to needed treatment services or medication; [and]

ix. An agreement not to use illegal substances; abuse alcohol, legal prescription, or nonprescription drugs to excess or contrary to instructions; not to allow anyone to smoke in the presence of the child in placement; and to adhere to the reasonable and prudent parent standards; and

[ix.] **x.** (No change in text.)

(e) An applicant seeking to provide kinship care, as specified in N.J.A.C. 3A:51-[1.2(b)3]**1.2(b)2**, may be approved by the Division to care for a child prior to the issuance of a license, provided that all of the following conditions are met:

1.-4. (No change.)

3A:51-2.2 Issuance of a license

(a) (No change.)

(b) The Office of Licensing may grant a waiver of a level II requirement for a resource family parent or applicant providing kinship care, as specified in N.J.A.C. 3A:51-1.2(b)3**2**.

1.-2. (No change.)

3. A waiver may be granted at the discretion of the Office of Licensing upon consideration of the following criteria:

i.-ii. (No change.)

iii. Whether the waiver, if granted, would adversely affect the health, safety, well-being, or rights of any child residing in the resource family home.

4.-5. (No change.)

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

(f) Upon receiving a license, each resource family parent shall sign an agreement concerning his or her role and responsibilities and containing assurances that each resource family parent will adhere to the corporal punishment, alcohol and drug use, smoking, and reasonable and prudent parent standards contained in this chapter.

[(f)] **(g)** (No change in text.)

[(g)] **(h)** The license shall apply to the resource family parent at the home in which the resource family resides at the time of the application.

1.-2. (No change.)
 3. The license shall not be transferable, except as specified in [(h)] (i) below.

[(h)] (i) If the resource family changes residence, the Office of Licensing representative shall inspect the new residence to determine whether it is in compliance with the applicable provisions of this chapter, **including the provisions of N.J.A.C. 3A:51-2.1(d) for cooperating with the Division in amending the home study.** The resource family parent shall provide notice of a change of residence at least 30 days in advance of the move.

Recodify existing (i)-(k) as (j)-(l) (No change in text.)

3A:51-2.4 Renewal of a license

(a) (No change.)

(b) The Office of Licensing shall issue a renewal license to a resource family parent who [is in full compliance with all level I requirements and substantial or full compliance with level II requirements] **has submitted a renewal application and participated in a renewal inspection of the resource family home.**

(c) For license renewal, the resource family parent shall:

1.-2. (No change.)

3. Submit information necessary for a State Criminal History Record Information background check pursuant to N.J.S.A. 30:4C-26.8 for each resource family parent and household member 18 years of age or older, each new adult household member, and each household member who reaches 18 years of age, as specified in N.J.A.C. 3A:51-5.4(a)1 and 2; [and]

4. Submit information necessary for a Child Abuse Record Information background check for each resource family parent and household member 18 years of age or older, each new adult household member and each household member who reaches 18 years of age, as specified in N.J.A.C. 3A:51-5.5[.]; **and**

5. Submit an updated financial disclosure statement.

3A:51-2.5 Denying, suspending, revoking, or refusing to renew a license

(a) The Office of Licensing shall deny an application or suspend, revoke, or refuse to renew a license, as applicable, if the applicant, resource family parent, or any household member at least 18 years of age has been convicted of a crime or offense specified in N.J.S.A. 30:4C-26.8.

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

(d) Before the decision to deny an application or suspend, revoke, or refuse to renew a license becomes effective, the resource family parent or applicant shall have the opportunity to request a hearing to contest the action, as specified in N.J.A.C. 3A:51-2.6(a).

(e)-(h) (No change.)

3A:51-2.6 Administrative hearings

(a) Before denying, suspending, revoking, or refusing to renew a license, the Office of Licensing shall give written notice to the resource family parent or applicant personally, or by mail to the last known address of the resource family parent or applicant with return receipt requested. The notice shall:

1.-2. (No change.)

(b) (No change.)

3A:51-2.7 Complaints

(a)-(e) (No change.)

(f) Substantiation by the Department of a child abuse or neglect report shall not in itself automatically result in the denial, suspension, or revocation of or refusal to renew a license, but shall constitute grounds for such action at the discretion of the Office of Licensing after considering information provided by the Department. The Office of Licensing may issue or continue the license if the resource family parent's or applicant's continued service poses no continuing risk of harm to any child residing in the home and the issuance or continuation of the license is in the best interests of a specific child who is or will be placed in the home.

SUBCHAPTER 3. ADMINISTRATION

3A:51-3.1 Rights of children in placement

(a) Level I children's rights requirements are as follows:

1. (No change.)

2. The resource family parent shall ensure the rights of each child in placement to:

i.-ii. (No change.)

iii. Live in a safe, clean, and healthy home;

iv. Be free of physical and sexual harassment and abuse, corporal punishment, or threat thereof;

v.-ix. (No change.)

3A:51-3.2 Records kept by a resource family parent

(a) The resource family parent shall maintain on file in the home the following information about each child in placement:

1. The child's full name, nicknames, if any, gender, date of birth, religion, and race;

2. The name, address, and telephone number of the Division [caseworker] **worker** and supervisor;

3. The name, address, and telephone number of the [caseworker] **worker** or other person to be notified in an emergency involving a child in placement;

4.-5. (No change.)

(b) In addition to (a) above, the resource family parent, in conjunction with the [caseworker] **worker**, shall maintain on file in the home the following information about each child in placement when appropriate and applicable:

1. (No change.)

2. The child's medical history, including documentation of initial and annual physical examinations, chronic conditions, past serious illnesses, allergies, medications, immunizations, and special dietary needs.

(c) The resource family parent shall maintain on file the following records:

1. (No change.)

2. A copy of the Manual of Requirements for Resource Family Parents, **N.J.A.C. 3A:51**; and

3. (No change.)

(d) The Department may, without prior notice, inspect and examine a resource family home and inspect all documents, records, files, or other data required to be maintained by a resource family parent pursuant to the Resource Family Parent Licensing Act, N.J.S.A. 30:4C-27.3 et seq.

3A:51-3.4 Reporting requirements

(a)-(d) (No change.)

(e) The resource family parent shall notify the Office of Licensing at least 30 days in advance of relocation to a home not approved by the Office, as specified in N.J.A.C. 3A:51-2.2[(h)](i).

[(f) The resource family parent shall notify the child's caseworker of vacation plans in which the resource family parent or child in placement will be absent from the home overnight.]

SUBCHAPTER 4. PHYSICAL FACILITY REQUIREMENTS

3A:51-4.1 Physical facility and maintenance requirements

(a) Level I physical facility requirements are as follows:

1. (No change.)

[2. If the home has a swimming pool or a natural bathing area, the resource family parent or applicant shall:

i. Maintain a ring buoy with a rope, extension pole or other device that can be used to rescue a swimmer in distress;

ii. Meet all applicable local ordinances that apply to a swimming pool or natural bathing area;

iii. Enclose a swimming pool or natural bathing area with a barrier approved by the Office of Licensing; and

iv. Ensure that an adult approved by the resource family parent or applicant supervises all children while they are in the pool, pool area or natural bathing area.]

2. A telephone shall be in service in the home at all times when a child in placement is present.

3. Cameras, recording devices, or monitoring devices, including a home security system focusing on points of egress to the outside, may be installed.

4. Cameras, recording devices, and monitoring devices shall not be installed in or monitor bathrooms.

5. Cameras, recording devices, and monitoring devices shall not be used in a bedroom used by a child in placement who is over four years of age. The device shall not impose on the privacy of any child in placement.

6. The resource family parent shall reveal any use of monitoring or recording devices to each child in placement prior to their use.

(b) Level I maintenance requirements are as follows:

1. Major plumbing, drains, sewer lines, and septic systems shall be operable and in good repair.

2. At least one toilet, one wash basin, and one bathtub or shower shall be provided in the home and shall be in good working order.

3. Each egress door shall be readily opened from the side from which egress is to be made without a key, special knowledge, or special effort.

4. Major appliances shall be plugged directly into electrical outlets. Small appliances may be operated by using an appropriately rated power strip. Extension cords shall not be used to connect appliances to electrical outlets.

[1.] 5. (No change in text.)

[2.] 6. All corrosive agents, insecticides, bleaches, polishes, products under pressure in an aerosol can, and toxic substances shall be labeled and stored in an area inaccessible to children who are under 10 years of age or whose assessment indicates the need for such protection.

Recodify existing 3.-4. as 7.-8. (No change in text.)

[5. A telephone shall be in service in the home at all times when a child in placement is present.]

[6.] 9. The resource family parent or applicant shall not use spray coatings containing asbestos on any interior or exterior surfaces of the home or on any equipment used therein, in accordance with rules of the State Department of Environmental Protection, as specified in N.J.A.C. 5:23-8. If the New Jersey Department of Health determines the presence of sprayed-on asbestos-containing materials[,] and concludes that corrective action must be taken to minimize exposure potential, the resource family parent or applicant shall follow the recommendation of that Department for enclosure, removal, or other appropriate action to remove the threat or risk of asbestos contamination.

[7. Major appliances shall be plugged directly into electrical outlets. Small appliances may be operated by using an appropriately rated power strip. Extension cords shall not be used to connect appliances to electrical outlets.]

[8.] 10. (No change in text.)

[9. Major plumbing, drains, sewer lines and septic systems shall be operable and in good repair.

10. At least one toilet, one wash basin and one bathtub or shower shall be provided in the home and shall be in good working order.

11. Each egress door shall be readily opened from the side from which egress is to be made without a key, special knowledge or effort.]

(c) The home, land, and outdoor area shall be free from hazards to the health, safety, or welfare of children. Each requirement in this subsection is a level I requirement.

1.-2. (No change.)

3. Heating and ventilation requirements are as follows:

i. (No change.)

ii. Working fireplaces and electric space heaters shall be protected by screens, guards, insulation, or any other non-combustible protective device.

iii. Steam and hot water pipes and radiators shall be protected by screens, guards, insulation, or any other suitable non-combustible protective device.

[ii.] iv. (No change in text.)

4. When a wood burning stove is in use, the resource family parent shall ensure that either:

i. The stove is protected by a screen or guard; or

ii. Age-appropriate supervision is provided at all times when children are present.

[4.] 5. Kitchen and bathroom requirements are as follows:

i.-ii. (No change.)

iii. A sufficient supply of hot water that is maintained at a safe temperature in the professional judgment of the Office of Licensing staff and of cold running water shall be in the home.

[5.] 6. (No change in text.)

(d) (No change.)

(e) The resource family parent or applicant shall ensure that all necessary steps are taken to correct any condition in the indoor or outdoor area that may endanger in any way the health, safety, and well-being of a child in placement.

(f) If the home has a swimming pool or a natural bathing area, the resource family parent or applicant shall:

1. Maintain a ring buoy with a rope, extension pole, or other device that can be used to rescue a swimmer in distress;

2. Meet all applicable local ordinances that apply to a swimming pool or natural bathing area; and

3. Enclose a swimming pool or natural bathing area with a barrier approved by the Office of Licensing and equip the barrier with a safety device; and

4. Have a working pump and filtering system for each pool, if that pool cannot be emptied after each use.

(g) The resource family parent shall ensure that an adult approved by the resource family parent or applicant supervises all children while they are in the pool, pool area, natural bathing area, hot tub, or spa.

(h) Each resource family parent shall use a safety cover that is locked when not in use, if the home has a hot tub or spa.

3A:51-4.2 Bedroom requirements

(a) Level I bedroom requirements are as follows:

1. Each bedroom occupied by anyone in the resource family shall have two independent means of exit, at least one of which is an operable window or door suitable for emergency escape or rescue leading directly outside, or the current certificate of occupancy identifies the room as a bedroom, which means that adequate egress has been verified.

2. Each child in placement shall be provided with his or her own age-appropriate bed, bassinet, or crib, [as age-appropriate, which] that is located in a bedroom and kept in a sanitary and safe condition. A child in placement shall not share a bed with either another child or an adult.

3.-5. (No change.)

3A:51-4.3 Sharing a bedroom

A child in placement shall not share a bedroom with any child of the opposite sex unless consideration of the child in placement's age and sexual identity indicate that this is in the child's best interest.

3A:51-[4.3]4.4 Emergency evacuation, medical emergencies, and fire prevention

(a) Level I emergency evacuation, medical emergency, and fire safety requirements are as follows:

1. A battery-operated or [hard wired] hard-wired smoke detector shall be [installed]:

i. Installed on each floor of the home;

ii. Installed adjacent to each sleeping area; and [operable]

iii. Operable at all times.

2. All combustible or flammable materials shall be kept at least three feet away from furnaces, boilers, heaters, fireplaces, wood-burning stoves, and hot water heaters.

3. (No change.)

[4. Working fireplaces and electric space heaters shall be protected by screens, guards, insulation or any other suitable, non-combustible protective device.

5. When a wood-burning stove is in use, the resource family parent shall ensure that either:

i. The stove is protected by a screen or guard; or

ii. Age-appropriate supervision is provided at all times when children are present.]

Recodify existing 6.-8. as 4.-6. (No change in text.)

[9.] 7. In order to receive an initial or renewal license, the resource family parent or applicant shall ensure that a carbon monoxide detector is in operation adjacent to each bedroom area[, if the home contains fuel-burning appliances or has an attached garage used for motor vehicles] and on each floor of the home.

8. The resource family home shall contain at least one fully-charged fire extinguisher, that is rated 1A, 10BC, or ABC and is readily accessible.

3A:51-[1.4]4.5 Capacity

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

(c) The Office of Licensing may license a resource family home for less than the capacity limits specified in (a)1 above, may reduce a home's licensed capacity after the license has been issued, and may restrict a home to serve only a specific child or children, if necessary to serve the best interests of the children who are or may be placed in the home.

SUBCHAPTER 5. PERSONAL REQUIREMENTS

3A:51-5.1 General personal requirements

(a) Level I general personal requirements are as follows:

1. The resource family parent **or resource family applicant** shall be of good character, as evidenced by the application and home study process as specified in N.J.A.C. 3A:51-2.1, and shall possess skills, attributes, and characteristics conducive to and suitable for being a resource family parent and caring effectively for a child in placement.

2. The resource family parent **or resource family parent applicant** shall be in sufficient physical, mental, and emotional health to perform his or her duties satisfactorily.

i. The resource family parent **or resource family parent applicant** shall be free of serious contagious diseases that may put a child in placement at risk.

ii. The resource family parent **or resource family parent applicant** shall refrain from abuse of drugs or alcohol.

iii. **Each resource family parent or resource family parent applicant shall disclose his or her current mental health and substance use issues and shall participate in recommended psychological evaluations and drug screenings when determined to be necessary by the Department.**

iv. **Each resource family parent or resource family parent applicant shall disclose his or her physical health, mental health, and substance use history.**

3. The resource family parent **or resource family parent applicant** shall demonstrate reasonable and mature attitudes towards professional figures and institutions, as determined by a review of references and an assessment of the resource family parent's interactions during training and home visits by the Department representative.

i. The resource family parent **or resource family parent applicant** shall cooperate with all activities in the case plan for the child in placement, such as counseling, therapy, court sessions, visits with the child's family or life skills programs to develop the basic skills needed to succeed in daily living, career planning, housing, and money management, when appropriate.

ii. The resource family parent **or resource family parent applicant** and each household member shall cooperate in all licensing activities as requested by the Department.

4. At least one resource family parent shall be able to communicate with each child in placement in a language that the child understands.

5. At least one resource family parent or applicant shall be able to communicate in English.

6. At least one resource family parent or applicant shall be functionally literate.

Recodify existing 4.-6. as 7.-9. (No change in text.)

3A:51-5.2 References

(a) (No change.)

(b) The medical reference shall meet the following requirements:

1. (No change.)

2. The medical reference source shall provide information needed to assist the Department in evaluating the physical and emotional health of the individual. Information in the medical reference shall include, but is not limited to:

i.-iv. (No change.)

v. [To] **Whether, to** the physician's knowledge, [whether] the individual is in good emotional health;

vi. [To] **Whether, to** the physician's knowledge, [whether] the individual uses any substance, such as tobacco, alcohol, or drugs, in a way that affects his or her ability to function;

vii.-ix. (No change.)

(c) Each personal reference shall meet the following requirements:

1. All personal reference sources shall be unrelated to the individual who is the subject of the reference[,] and shall possess knowledge that would allow them to attest to the individual's suitability to care for children.

2.-4. (No change.)

5. The personal references shall provide information needed to assist the Department in evaluating:

i.-iv. (No change.)

v. The extent to which applicants in a marriage, civil union, or domestic partnership are a compatible couple with a strong, loving, and stable relationship;

vi.-vii. (No change.)

(d) (No change.)

(e) The school or day care reference source shall provide information needed to assist the Department in evaluating the adjustment of the **applicant's** child in school or [day] **child** care and the role taken by the applicant in the child's education or care.

(f)-(g) (No change.)

3A:51-5.3 Home study

(a) The applicant shall permit and participate in a home study by the Department. The completed home study shall include:

1. Identifying information on each applicant and household member, including:

i. (No change.)

ii. A visa or United States **Citizenship and** Immigration [and Naturalization] Service documentation as evidence of legal residency, if the resource family parent or applicant is not a citizen of the United States;

2.-4. (No change.)

3A:51-5.4 Criminal History Record Information background checks

(a) Level I Criminal History Record Information requirements are as follows:

1.-4. (No change.)

5. If the resource family parent or applicant or any person specified in (a)1 above refuses to consent to a CHRI fingerprint background check, the Office of Licensing shall deny the application or suspend, revoke, or refuse to renew the license, as applicable.

6. (No change.)

7. A person shall be disqualified from receiving or maintaining an initial or renewal license as a resource family parent if that person or any person specified in (a)1 above ever committed a crime which resulted in a conviction for:

i.-xi. (No change.)

xii. Arson, pursuant to N.J.S.A. 2C:17-1, or causing or risking widespread injury or damage [which] **that** would constitute a crime of the second degree pursuant to N.J.S.A. 2C:17-2; or

xiii. An attempt or conspiracy to commit an offense listed in [(a)4i] (a)7i through xii above.

8. A person shall be disqualified from receiving or maintaining an initial or renewal license as a resource family parent if that person or any person specified in (a)1 above was convicted of one of the following crimes and the date of release from confinement occurred during the preceding five years:

i.-v. (No change.)

vi. An attempt or conspiracy to commit an offense listed in [(a)5i] (a)8i through v above.

9. The term "date of release from confinement" in [(a)5] (a)8 above means the date of termination of court-ordered supervision through probation, parole, or residence in a correctional facility, whichever date occurs last.

10. A conviction for one of the offenses enumerated in [(a)4 or 5] (a)7 **or 8** above shall be determined to have occurred if the person has been convicted under the laws of this State or any other state or jurisdiction for an offense that is substantially equivalent to the offenses enumerated in this subsection.

11. If the Department is notified that any person specified in (a)1 above is convicted of a crime or offense after the CHRI has been completed, the Department shall make a determination whether to deny, suspend, revoke, or refuse to renew the resource family parent's license.

(b) The Department may obtain a criminal history check from the local police department for any resource family parent, applicant, temporary caregiver, or household member at least 18 years of age. The applicant or resource family parent shall submit Department-specified release of information forms for a local criminal history check for such an individual when requested by the Department.

3A:51-5.5 Child Abuse Record Information background checks

(a) Level I Child Abuse Record Information requirements are as follows:

1. (No change.)

2. If any person specified in (a)1 above refuses to consent to a CARI background check, the Office of Licensing shall deny the application or suspend, revoke, or refuse to renew the license, as applicable. The resource family parent or applicant may appeal the denial, suspension, revocation, or refusal to renew, as specified in N.J.A.C. 3A:51-[2.5]2.6.

3.-4. (No change.)

(b) If the Department determines that an incident of child abuse or neglect by any person specified in (a)1 above has been substantiated, the Office of Licensing shall deny the application or suspend, revoke, or refuse to renew the license, as applicable; except that the Office may issue a license if all of the following conditions have been met:

1. No person specified in (a) above has been [responsible] **substantiated** for an incident of sexual abuse of a child or an incident of child abuse or neglect that caused serious injury or harm to a child, or has caused death to a child through abuse or neglect, or has put a child at risk of serious injury or harm;

2.-5. (No change.)

3A:51-5.6 Training

(a) A level I training requirement is as follows:

1. (No change.)

2. The pre-service training shall include, but is not limited to:

i. Legal rights, roles, responsibilities, and expectations of resource family parents;

ii. The structure, purpose, policies, and services of the Department;

iii. The laws and rules governing the Department;

iv. The impact of childhood trauma;

v. Managing child behaviors;

vi. Training in first aid and cardiopulmonary resuscitation for the ages of children in placement; and

vii. The importance of maintaining the parent-child connections and visitation.

(b) (No change.)

[(c) Each new resource family parent added to the home shall complete the pre-service and in-service training specified in (a) and (b) above within the time frames determined by the Department.]

SUBCHAPTER 6. RESOURCE FAMILY HOME PROGRAM REQUIREMENTS

3A:51-6.1 Supervision of children in placement

(a) Level I supervision requirements are as follows:

1.-4. (No change.)

5. The resource family parent shall not use cameras installed in the home as a means of supervision unless determined by the treating physician to be medically necessary.

3A:51-6.2 Visitation and communication

(a) (No change.)

(b) Level I visitation and communication requirements are as follows:

1. (No change.)

2. The resource family parent shall provide each child in placement with access to a telephone for telephone conversations with the child's [caseworker] **worker** and law guardian or law guardian investigator, as applicable.

i. The resource family parent shall not obligate the child in placement to pay for the cost of telephone calls to and from the [caseworker] **worker or law guardian**.

ii. The resource family parent shall provide each child in placement with adequate privacy for telephone calls to and from the [caseworker] **worker and law guardian**, but the resource family parent may locate the telephone in an area where the resource family parent can observe the child's reactions.

3. The resource family parent shall provide each child in placement with reasonable access to the telephone **and other means of communication** for [telephone conversations] **communication** with the child's parents.

i. The resource family parent may impose restrictions on these conversations **and communications** if necessary to comply with a court order or child's case plan that limits the child's contact with his or her parents.

ii. When the resource family parent imposes restrictions on a child's access to telephone conversations **or other means of communication**, as specified in (b)3i above, the resource family parent shall explain the nature of the restrictions to the child.

4.-6. (No change.)

(c) The resource family parent shall provide each child in placement with reasonable access to the telephone [for telephone conversations] **or other means of communication to communicate** with friends. The resource family parent may impose one or more of the following conditions:

1. Restricting the time and duration of telephone calls **or other communications**;

2. Denying the child **in placement** the use of the telephone **or other means of communication** for discipline reasons; and

3. Requesting the child **in placement** to identify telephone callers **and those individuals with whom the child in placement communicates**.

(d) (No change.)

(e) The resource family parent shall request that the child in placement open parcels or letters in the presence of the resource family parent upon suspicion that the contents contain contraband. If the child refuses to comply with this request, the resource family parent shall inform the child's [caseworker] **worker**.

(f) The resource family parent shall permit a child in placement to visit his or her Division [caseworker] **worker** and law guardian or law guardian investigator, as applicable, upon request.

3A:51-6.3 Education

(a) (No change.)

(b) The resource family parent shall encourage good study habits, be involved with the academic progress of each child in placement, attend school conferences, and meet with school personnel when there are problems or periodic reviews.

1. (No change.)

2. The resource family parent shall inform the Division [caseworker] worker about the academic progress of each child in placement.

(c) (No change.)

(d) The resource family parent shall ensure that each child in placement who is three or four years old, or five years old and not enrolled in kindergarten, attends an early childhood education program. The early childhood education program shall be:

1. (No change.)

2. Approved by the [caseworker] **worker** as meeting the child's educational needs.

(e) (No change.)

3A:51-6.7 Pets

(a) The resource family parent shall ensure that pets kept in the home pose no danger to the health, safety, or well-being of a child in placement.

(b) The resource family parent shall ensure that all pets kept in the home are:

1.-3. (No change.)

4. Effectively controlled by leash, command, or cage.

(c)-(d) (No change.)

SUBCHAPTER 7. HEALTH REQUIREMENTS

3A:51-7.1 Health care and medical treatment

(a) Level I health care and medical treatment requirements for children are as follows:

1. The resource family parent, in cooperation with the Division [caseworker] **worker**, shall ensure that the medical, dental, mental/behavioral health, and other health care needs of each child in placement **who is under age 18 or when the case plan states that the resource family parent is responsible** are adequately and promptly met, including arranging for emergency, routine, and follow-up medical, dental, mental/behavioral health, and other health care.

2. The resource family parent shall ensure that each child living in the home, including children in placement **under age 18 or when the case plan states that the resource family parent is responsible** and all other children in the resource family, receives all age-appropriate immunizations as recommended by the child's physician, **unless a physician or advanced practice nurse documents that immunization would be detrimental to the child's health.**

3. A child residing in the home who is not in placement shall be exempted from immunization, if [the]:

i. The parent objects thereto in a written statement submitted to the Department, signed by the parent, explaining how the immunization conflicts with the child's exercise of bona fide religious tenets or practices; or

ii. **Immunization is contrary to the child's health as documented by a physician or advanced practice nurse.**

(b) The resource family parent shall maintain documentation of all medical, dental, and other health care examinations and treatment for each child in placement **who is under age 18 or when the case plan states that the resource family parent is responsible.** The resource family parent shall contact the [caseworker] **worker** to obtain this information if he or she does not have documentation of a child's examinations and treatment.

(c) The resource family parent shall ensure that all medical, dental, psychological, and psychiatric treatment or medication administered to a child in placement **who is under age 18** is explained to the child in an age-appropriate manner.

3A:51-7.2 General health practices

(a) Level I general health practices requirements are as follows:

1. (No change.)

2. If a child in placement, resource family parent, or household member has a serious communicable disease, the resource family parent shall:

i.-ii. (No change.)

iii. Contact the Division [caseworker] **worker** or the State Central Registry, if after office hours, who shall determine whether the New Jersey State Department of Health, the local health department, or other appropriate public health authority needs to be contacted.

3. The resource family parent shall maintain a smoke-free environment in all indoor areas of the home, [and] in all vehicles used to transport a child in placement, **and in the presence of each child in placement.**

i.-iii. (No change.)

3A:51-7.3 Prescription and non-prescription medication

(a) Level I prescription and non-prescription medication requirements are as follows:

1. The resource family parent shall administer prescription medication to a child in placement **under age 18 or when the case plan states that the resource family parent is responsible** only when a physician, clinical nurse specialist, nurse practitioner, or dentist authorizes the medication.

2.-3. (No change.)

4. **The resource family parent shall allow each child in placement 18 years and older to maintain and administer his or her own medication:**

i. **Unless it is prohibited by the prescribing physician or the case plan; and**

ii. **If the medication is securely stored.**

(b) [The] **For each child in placement under age 18,** the resource family parent shall safely dispose of all expired medications and

prescriptions [for each child in placement, which] **and all medications and prescriptions that are no longer [in use] used.**

3A:51-7.4 Psychotropic medication

(a) Level I psychotropic medication requirements are as follows:

1. Before any psychotropic medication is administered to a child in placement **under age 18 or when the case plan states that the resource family parent is responsible,** the resource family parent, in conjunction with the Division [caseworker] **worker**, shall ensure that the child's initial assessment to determine the need for and the possible risks or side effects of psychotropic medication is completed by a board-certified or board-eligible physician in one of the following areas of expertise: psychiatry, neurodevelopmental pediatrics, or pediatric neurology.

i. The resource family parent, in conjunction with the Division [caseworker] **worker**, may utilize the services of the physicians identified in (a)1 above, a pediatric or family physician, or an advanced practice nurse certified in pediatric or family medicine or psychiatric/mental health, to complete an initial assessment, being conducted solely for the purpose of assessing Attention Deficit Hyperactivity Disorder and to determine the need for and the possible risks or side effects of the psychotropic medication.

2.-4. (No change.)

5. The resource family parent shall ensure that [the] **each** child in placement[, receiving] **who is under age 18 or whose case plan states that the resource family parent shall maintain this responsibility and who is prescribed** psychotropic medication is monitored in the following manner:

i. The resource family parent shall immediately report any observed side effects, which are identified in the assessment specified in (a)1 and (a)1i above, to the Division [caseworker] **worker** and the prescriber.

ii. The resource family parent, in conjunction with the Division [caseworker] **worker**, shall ensure that ongoing assessments, psychotropic medication monitoring, and resultant prescriptions for a child in placement **who is under age 18** only be conducted by a board-certified or board-eligible physician in one of the following areas of expertise: psychiatry, neurodevelopmental pediatrics, or pediatric neurology, or by an advanced practice nurse certified in psychiatric/mental health.

iii. The resource family parent, in conjunction with the Division [caseworker] **worker**, may utilize the services of the physicians or advanced practice nurses certified in psychiatric/mental health identified in (a)5ii above, or he or she may utilize the services of a pediatric or family physician, or an advanced practice nurse certified in pediatric or family medicine to complete the ongoing assessments, medication monitoring, and prescriptions, where ongoing assessments, medication monitoring, and prescriptions are solely for the treatment of Attention Deficit Hyperactivity Disorder.

iv. The resource family parent, in conjunction with the Division [caseworker] **worker**, shall ensure that the prescriber reviews the child's status, behavior, well-being, progress, side effects, and reason for continuing the medication every 30 days or as the prescriber deems necessary.

v. The resource family parent, in conjunction with the Division [caseworker] **worker**, shall ensure that a pediatric or family physician or advanced practice nurse certified in pediatric or family medicine or psychiatric/mental health treating a child in placement **who is under age 18** for Attention Deficit Hyperactivity Disorder coordinates care for each child in placement **under age 18** who is also being treated for another psychiatric disorder by another prescriber.

(b) When a child in placement **who is under age 18** is receiving psychotropic medication, the resource family parent shall maintain a medication log indicating the child's name, the type of psychotropic medication, and the date and time the medication is administered.

3A:51-7.6 Environmental sanitation and hygiene

(a) Level I environmental sanitation and hygiene requirements are as follows:

1. The resource family parent shall ensure that disposable gloves, which shall be discarded after each use, are used when any person in the home has contact with blood, vomit, urine, fecal matter, or other body secretions of any person known to have an infectious disease.

2. The resource family parent shall ensure that all items in the home and outdoors that come into contact with blood, vomit, urine, fecal matter, or other body secretions are washed and disinfected with a commercially prepared disinfectant whose label indicates it kills bacteria, viruses, and parasites.

i. (No change.)

ii. Items to be washed and disinfected shall include:

(1)-(4) (No change.)

(5) Mops, washcloths, towels, and sponges that were used in the clean-up.

3. The resource family parent shall ensure that all persons in the home thoroughly wash their hands with a disinfectant soap after each incident of coming into contact with blood, vomit, urine, fecal matter, or other body secretions.

COMMUNITY AFFAIRS

(a)

NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

New Jersey Housing and Mortgage Finance Agency Prepayment Rules

Proposed Amendment: N.J.A.C. 5:80-5.10

Authorized By: New Jersey Housing and Mortgage Finance Agency, Charles A. Richman, Executive Director.

Authority: N.J.S.A. 55:14K-5.g.

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

Proposal Number: PRN 2019-031.

Submit written comments by May 17, 2019, to:

Jim Peasco, Senior Legal Research Analyst
New Jersey Housing and Mortgage Finance Agency
637 South Clinton Avenue
PO Box 18550
Trenton, New Jersey 08650-2085
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The agency proposal follows:

Summary

The New Jersey Housing and Mortgage Finance Agency (“NJHMFA” or “Agency”), pursuant to its statutory authority, serves as an advocate for increasing the supply of adequate, safe, and affordable housing in the State of New Jersey. To fulfill its statutory mandate, the Agency acts as a mortgage lender by providing financing to housing sponsors who wish to construct, rehabilitate, or improve housing for low- and moderate-income residents of the State. The Agency also provides mortgage loans for home buyers and serves as the housing credit agency for the State.

The rules of the Agency, codified at N.J.A.C. 5:80, were adopted and have been amended from time-to-time pursuant to the authority of the New Jersey Housing and Mortgage Finance Agency Law of 1983 (Act), N.J.S.A. 55:14K-1 et seq., to establish procedures for and terms and conditions of mortgage loans made by the Agency and the means of administering the Federal program of low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code (IRC), 26 U.S.C. § 42. N.J.A.C. 5:80-5.10 (hereinafter, “prepayment rules”), was, together with other rules in N.J.A.C. 5:80-5, adopted in 1984 to “regulat[e] the transfer of ownership interests in housing projects financed by the Agency and its predecessors, the Housing Finance Agency (HFA) and the Mortgage Finance Agency (MFA).” *Lower Main St. Assocs. v. New Jersey Hous. and Mortgage Finance Agency*, 114 N.J. 226, 228 (1989) (citing 15 N.J.R. 2090-95). The prepayment rules specifically govern the prepayment of Agency mortgages prior to the expiration of their terms. The Agency is proposing the following amendments to the prepayment rules:

1. The Agency proposes to amend N.J.A.C. 5:80-5.10(b) to replace the term “Agency” with “Agency’s Executive Director, Deputy Executive Director, Chief Financial Officer, or Chief of Legal and Regulatory Affairs.”

2. The Agency proposes to amend N.J.A.C. 5:80-5.10(b)1 to replace the 20-year “lockout” period for the prepayment of Agency mortgages with a 15-year period and to insert a provision to expressly include among those conditions to which a housing sponsor must agree to be bound in order for prepayment to be approved, the continued applicability of the Agency’s return on equity provisions, except as modified by N.J.A.C. 5:80-5.10(b)7 (which allows the alternative of funding an acceptable operating reserve account in lieu of continuing return on equity restrictions). In addition to the continuation of the return on equity restrictions, the provisions related to tenant income eligibility, tenant selection, rent increases, certification/recertification of income, affirmative fair housing marketing, and transfer of ownership interests will continue to be applicable in their entirety to the sponsor, project, and tenants until the original expiration date of the original mortgage loan. The reduction in the lock-out period recognizes that almost all projects recently financed by the Agency also received awards of low-income housing tax credits. The tax benefits to the limited partners who have invested in those projects are virtually eliminated after the initial 15-year tax-credit compliance period ends. The limited partners, therefore, frequently seek to exit the partnership pursuant to an agreement with the general partner for a payout amount. General partners have experienced difficulty in raising the money to fund those buyouts without the ability to refinance their projects, which they are unable to do with Agency mortgages still in place. The proposed amendment would give project sponsors the ability to refinance 15 years after the closing on the Agency loan, which is when the funds are needed. Additionally, the proposed amendment would allow housing sponsors to take advantage of possibly more favorable market conditions five years sooner than is presently the case.

3. The Agency proposes to amend N.J.A.C. 5:80-5.10(b)2 to insert a phrase to allow utilization of an Agency-approved construction funding account, as an alternative to an Agency-controlled escrow account, to ensure the funding of necessary repairs or improvements to a project following prepayment of the Agency mortgage.

4. The Agency proposes to amend N.J.A.C. 5:80-5.10(b)5 to delete the word “initially,” to clarify that the requirements set forth in N.J.A.C. 5:80-5.10(b)5i, ii, and iii will continue throughout the original mortgage term.

5. The Agency proposes to add new N.J.A.C. 5:80-5.10(b)8 to provide that any additional mortgage financing sought to be placed on the project during the Agency’s continuing statutory and regulatory oversight period is subject to Agency staff’s prior determination that such financing will not impact the project’s continued financial feasibility throughout the remainder of that period. This proposed amendment would codify the Agency’s existing practice.

6. The Agency proposes to amend N.J.A.C. 5:80-5.10(c)3 to add a phrase to include a new subsidy to the project that will maintain the project’s financial viability throughout the remainder of the original mortgage term as being acceptable to replace reduced or terminated subsidies where such reduction or termination is imposed by HUD or other issuing authority.

7. The Agency proposes new N.J.A.C. 5:80-5.10(g) to provide for a \$5,000 non-refundable processing fee payable to the Agency to accompany any prepayment request, other than when the prepayment is to occur simultaneously with a transfer of ownership necessitating a full review.

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

Social Impact

The proposed amendment at N.J.A.C. 5:80-5.10(b)1 to replace the existing 20-year prepayment “lockout” period with a 15-year period is user-friendly and intended, with appropriate safeguards, to preserve Agency-financed housing projects as affordable for the original mortgage terms and to attract developers to take advantage of Agency financing, and, thereby, increase the supply of safe, adequate, and affordable housing