

APPENDIX C: Prudent Parent Standard

- Explanation of implementation
- Family Pathways' Prudent Parent Standard Training
- House Bill 477

Family Pathways

Striving to Strengthen Relationships

REASONABLE AND PRUDENT PARENT STANDARD

For many years there has been a movement driven by the youth in foster care to try and create more normal life situations and to be prepared for successful transition to adulthood. The tool to accomplish this goal by some states was to pass laws to implement a “Reasonable and Prudent Parent Standard” for decisions made by a resource parent. This standard allowed caregivers to make parental decisions that maintain the health, safety, and best interest of the child as well as decisions about the child’s participation in extracurricular, enrichment, cultural and social activities. Resource caregivers are required to be trained regarding the reasonable and prudent parent standard, especially around the child’s participating in age or developmental appropriate activities.

On September 29, 2014, President Obama signed into law the Preventing Sex Trafficking and Strengthening Families Act. This law requires all states to implement a “reasonable and prudent parent standard” for decisions made by a resource parent. Pennsylvania passed into law HB477 of 2015 to implement this new federal law. A copy of HB 477 is included with this training. The federal legislative goals of the Prudent Parent Standard laws, including Pennsylvania’s are:

- Every child in out of home care shall be entitled to participate in age-appropriate extracurricular, enrichment, and social activities.
- Caregivers must use a “prudent parent standard” in determining whether to give permission for a child in out-of-home care to participate in the above activities.
- Caregivers must take reasonable steps to determine the appropriateness of the activity taking into consideration the several factors regarding the child.
- Any state or local regulation or policy which prevents or creates barriers to participate in those activities is prohibited.
- Each state and local entity is required to ensure that private agencies providing services to foster children have policies consistent with this section and that those agencies promote and protect the ability of foster children to participate in age-appropriate extracurricular, enrichment, and social activities.

Attached please find the required Prudent Parent Standard training.

What is the Reasonable and Prudent Parent Standard?

The standard, characterized by careful and sensible parental decisions that maintain the health, safety and best interests of a child while encouraging the emotional and developmental growth of the child, that a caregiver must use when determining whether to allow a child in an out-of-home placement under the responsibility of the county agency to participate in extracurricular, enrichment, cultural and social activities.

Why has the law changed?

Participation in activities in school and the community is important to a child's well-being, both emotionally and in terms of developing valuable life skills and in building healthy supportive relationships with peers and caring adults. Providing children with age-appropriate or developmentally appropriate opportunities to experience freedom and responsibility are central to making a successful transition to adulthood.

What are age/developmentally appropriate activities?

They are:

- Activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical and behavioral capacities that are typical for an age or age group; and
- In the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical and behavioral capacities of the child.

What decisions do not apply to the reasonable and prudent parent standard?

- Religious practices/beliefs
- Education
- Non-routine physical/mental health treatment
- Use of psychotropic medications
- Any activity which conflicts with a court order, individual service plan or family service plan

Who does this law apply to?

- Dependent children and youth - no age limits
- Children and youth in foster family homes, kinship care homes, pre-adoptive homes
- Children and youth in group homes and other residential settings
- Youth in transitional and independent living
- Some youth in shared responsibility cases

What factors do I need to know when applying the Reasonable and Prudent Parent Standard?

You must consider all the following:

- The child's age, maturity and developmental level to maintain the overall health and safety of the child
- The potential risk factors to the child or to others and the appropriateness of the extracurricular, enrichment, cultural or social activity or experience.

The best interest of the child, based on information known by the caregiver

- The importance of encouraging the child's emotional and developmental growth.
- The importance of supporting the child in developing skills to successfully transition to adulthood
- The importance of providing the child with the most family-like living experience possible
- Any special needs or accommodations that the child may need to safely participate in the activity or experience

The child's wishes, though not determinative, may also be considered. Always have a safety plan.

Questions to ask to help with the normalcy decision making process:

- Does this activity promote social development?
- How well do I know this child?
- Has this youth shown maturity in decision making that is appropriate for their age/ability?
- Would I allow my own child to participate in this activity?
- Who will be attending the activity?
- Does this youth understand their medical needs and are they able to tell others how to help them if necessary?
- Will this activity violate a court order?
- Will the timing of this activity interfere with a sibling or parental visit, counseling appointment or doctor's appointment?
- Does this youth know who to call in case of an emergency?
- Does this youth understand our parental expectations regarding curfew, approval for last minute changes to the plan and the consequences for not complying with the expectations?
- Can this youth self-protect (protect themselves)?
- If able and appropriate, have I consulted with this youth's birth parents about their thoughts/feelings about their child participating in this particular activity?

An important step in the decision-making process is to discuss your thoughts with your Family Pathways' worker before making a decision so you are fully aware of the ramifications that may impact you and/or the child.

Will I be liable if the child in my care is in an accident?

Not if you:

- have completed the required training relating to the reasonable and prudent parent standard;
- have made a good faith effort to use the reasonable and prudent parent standard in approving the activity or experience; and
- your decision has not conflicted with any applicable court order or service plan

Where do the biological parents fit into these decisions?

You must consider the concerns of the biological parents of a child; however, those concerns should not necessarily determine the participation of the child in any activity.

Frequently Asked Questions:

- Do I need permission from the case manager, Guardian ad Litem, biological parent, or court before I make a decision?
Answer: You need to provide notice, not request permission. It is highly suggested that you discuss any thoughts with your Family Pathways' worker before making a decision.
- Can the youth in my care have a cell phone?
Answer: A child in foster care can have a cell phone. Use the Reasonable and Prudent Parent Standard to make the decision.
- Can the youth in my care use social media?
Answer: Use the Reasonable and Prudent Parent Standard to make the decision. Use of online social networking sites to communicate with family and friends is a normal, everyday practice for most people in our modern society. Foster families and foster children are no exception. The department does not prohibit a foster family from posting images of their foster child on a social networking site, provided the child's status as a foster child is not disclosed. If a child chooses to disclose his or her foster status, such disclosure is a matter of free speech which this agency has no ability, desire, or right to control. This agency strongly encourages any person posting a foster child's image to an online social networking site to use privacy settings in a manner which will protect the best interests of the child.
- Can the youth in my care get a job? What does the law say about minors working?
Answer: In Pennsylvania, minors under 14 years of age may not be employed or permitted to work in any occupation, except children employed on farms or in domestic service in private homes. No minor under 14 years of age may be employed on a farm by a person other than the farmer. Under certain restrictions, caddies may be employed at the age of 12, news carriers at 11 years of age, and juvenile performers in the entertainment field. For further information, please visit:
http://www.portal.state.pa.us/portal/server.pt/community/child_labor_act/10517.
- Can I sign for the youth in my care learner's driver license permit?
Answer: For youth under the age of 18, a DL-180 form must be completed by a parent, guardian, or spouse who is at least 18 years of age or older. For more information, please visit: <http://www.dmv.org/pa-pennsylvania/drivers-permits.php>.
- Can the youth in my care spend the night with friends?
Answer: Yes, each caregiver shall use the Reasonable and Prudent Parent Standard in determining whether to give permission for a child living in out-of-home care to participate in extracurricular, enrichment, or social activities. A caregiver is not liable for harm caused to a child who participates in an activity approved by the caregiver, provided that the caregiver has acted in accordance with the Reasonable and Prudent Parent Standard.
- Can the youth in my care get rides with other youth or adults who have not been background screened?
Answer: Yes, parents are expected to use the Reasonable and Prudent Parent Standard.

If I'm still not sure if the activity is appropriate for the youth child in my care, who can help me make the decision?

Answer: Please contact your Family Pathways' worker to discuss whether an activity is appropriate for the child in your care.

- Will I be held liable if a child's safety is jeopardized while participating in an activity I approved?

Answer: A caregiver is not liable for harm caused to a child who participates in an activity approved by the caregiver, provided that the caregiver has acted in accordance with the Reasonable and Prudent Parent Standard.

- If I want to take the youth in my care on vacation out of state, do I need permission?

Answer: Foster parents are encouraged to take any child in their care on vacation with them so long as it does not interfere with court-ordered visitation. The caregiver will notify their Family Pathways' worker so that the appropriate permission can be obtained.

- Who can watch the youth in my care if an emergency arises and I am unable to care for them?

Answer: A caregiver can select a well-known family member or friend to care for the child in an emergency. Please notify your Family Pathways' worker of the emergency so the appropriate safety measures can be taken.

- Who can babysit the youth in my care?

Answer: Babysitters can be 14 years or older. Babysitters who are 14 and 15 years old must have completed a recognized babysitter course. The caregiver is responsible to ensure the babysitter is suitable to complete the job and is provided guidance of what to do in an emergency. Furthermore, disciplinary procedures and confidentiality should be explained.

- Are background checks necessary for the youth to participate in school or community activities?

Answer: Background checks are not necessary for community or school activities. Criminal, delinquency and abuse/neglect history checks for dating, outings and activities with friends, families and school and church groups are not necessary for participation in normal school or community activities.

- Can youth attend church or other activities alone?

Answer: They should be allowed to experience activities without adult supervision with the permission of their caregivers. Youth should experience circumstances without direct supervision depending on the child's age, maturity, and ability to make appropriate decisions. Please remember, however, that the child's biological parent maintains religious rights regarding the child.

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 477 Session of
2015

INTRODUCED BY HICKERNELL, TOOHIL, BISHOP, COHEN, DUSH, FEE,
HARHART, HEFFLEY, MENTZER, MILLARD, MURT, PICKETT, ROEBUCK,
ROZZI, YOUNGBLOOD AND ZIMMERMAN, FEBRUARY 17, 2015

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, FEBRUARY 17, 2015

AN ACT

1 Providing for activities and experiences for children in out-of-
2 home placements.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Activities
7 and Experiences for Children in Out-of-Home Placements Act.

8 Section 2. Legislative intent.

9 The General Assembly finds and declares as follows:

10 (1) Parents and guardians make important decisions every
11 day regarding the participation of their children in
12 activities. Caregivers of children in out-of-home placements
13 are faced with making the same decisions for children in
14 their care.

15 (2) When a caregiver of a child in an out-of-home
16 placement makes a decision regarding the child's
17 participation in an activity, the caregiver must consider

1 applicable laws and policies designed to safeguard the
2 child's health and safety. However, these laws and policies
3 are sometimes interpreted to prohibit a child from
4 participating in age-appropriate and developmentally
5 appropriate extracurricular and community activities that are
6 important to healthy child and adolescent development.

7 (3) Participation in activities in school and the
8 community is important to a child's well-being, both
9 emotionally and in terms of developing valuable life skills
10 and building healthy supportive relationships with peers and
11 caring adults. Providing children with age-appropriate and
12 developmentally appropriate opportunities to experience
13 freedom and responsibility are central to making a successful
14 transition to adulthood.

15 (4) It is the intent of the General Assembly to
16 recognize the importance of normalizing the lives of children
17 in out-of-home placements and to empower their caregivers to
18 approve or disapprove a child's participation in activities
19 without prior approval of the department, the child's
20 caseworker or the court.

21 Section 3. Definitions.

22 The following words and phrases when used in this act shall
23 have the meanings given to them in this section unless the
24 context clearly indicates otherwise:

25 "Age-appropriate and developmentally appropriate." The
26 following:

27 (1) activities or items that are generally accepted as
28 suitable for children of the same chronological age or level
29 of maturity or that are determined to be developmentally
30 appropriate for a child, based on the development of

1 cognitive, emotional, physical and behavioral capacities that
2 are typical for an age or age group; or

3 (2) in the case of a specific child, activities or items
4 that are suitable for the child based on the developmental
5 stages attained by the child with respect to the cognitive,
6 emotional, physical and behavioral capacities of the child.

7 "Caregiver." A person with whom the child is placed in an
8 out-of-home placement, including a resource family or an
9 individual designated by a facility licensed under 55 Pa. Code
10 Ch. 3800 (relating to child residential and day treatment
11 facilities) or any other setting in which a dependent child is
12 placed by a court under 42 Pa.C.S. § 6351 (relating to
13 disposition of dependent child).

14 "County agency." The county children and youth social
15 service agency established in accordance with section 405 of the
16 act of June 24, 1937 (P.L.2017, No.396), known as the County
17 Institution District Law, or its successor, and supervised by
18 the department under Article IX of the act of June 13, 1967
19 (P.L.31, No.21), known as the Public Welfare Code.

20 "Department." The Department of Human Services of the
21 Commonwealth.

22 "Out-of-home placement." An out-of-home placement under 42
23 Pa.C.S. 6351.

24 "Private agency." A children and youth social service agency
25 subject to the requirements of 55 Pa. Code Ch. 3680 (relating to
26 administration and operation of a children and youth social
27 service agency).

28 "Reasonable and prudent parent standard." The standard
29 characterized by careful and sensible parental decisions that
30 maintain the health, safety and best interests of a child while

1 encouraging the emotional and developmental growth of the child.

2 Section 4. Access and standard.

3 (a) Access to activities and experiences.--Subject to
4 subsection (b), a child in an out-of-home placement is entitled
5 to engage in, to the greatest extent possible, age-appropriate
6 and developmentally appropriate activities and experiences. A
7 child with a disability or special needs in an out-of-home
8 placement shall have the same access to age-appropriate and
9 developmentally appropriate activities and experiences as the
10 child's nondisabled peers, even if reasonable accommodations are
11 required.

12 (b) Caregiver authority.--Caregivers have the authority to
13 provide or withhold permission for children in their care to
14 participate in and experience age-appropriate and
15 developmentally appropriate activities and experiences in
16 accordance with this section. The authority of a caregiver:

17 (1) Must be exercised using the reasonable and prudent
18 parent standard and in accordance with any applicable court
19 order, individual service plan and family service plan.

20 (2) May be exercised without the prior approval of a
21 county agency or private agency.

22 (c) Reasonable and prudent parent standard.--When using the
23 reasonable and prudent parent standard, a caregiver must
24 consider all of the following:

25 (1) The child's age, maturity and developmental level to
26 maintain the overall health and safety of the child.

27 (2) The potential risk factors and the appropriateness
28 of the extracurricular, enrichment or social activity or
29 experience.

30 (3) The best interest of the child, based on information

1 known by the caregiver.

2 (4) The child's wishes.

3 (5) The importance of encouraging the child's emotional
4 and developmental growth.

5 (6) The importance of supporting the child in developing
6 skills to successfully transition to adulthood.

7 (7) The importance of providing the child with the most
8 family-like living experience possible.

9 (8) Any special needs or accommodations that the child
10 may need to safely participate in the activity or experience.

11 (d) Limitation of liability.--A caregiver shall not be
12 liable for harm caused to a child while engaged in an activity
13 or experience approved by the caregiver if:

14 (1) the caregiver has used the reasonable and prudent
15 parent standard in approving the activity or experience; and

16 (2) the approval is in accordance with any applicable
17 court order, individual service plan and family service plan.

18 (e) Other liability protection.--This section shall not
19 remove or limit any existing liability protection afforded by
20 any other law.

21 Section 5. Obligations of department.

22 The Office of Children, Youth and Families of the department
23 shall do all of the following:

24 (1) Require, as a condition of licensure for foster
25 family care agencies and child-care facilities, the
26 development of standards and training relating to the
27 reasonable and prudent parent standard. The standards and
28 training shall include, but are not limited to, the
29 following:

30 (i) knowledge and skills relating to the

1 developmental stages of the cognitive, emotional,
2 physical and behavioral capacities of a child; and

3 (ii) knowledge and skills relating to applying the
4 reasonable and prudent parent standard to:

5 (A) decisions such as whether to allow a child
6 to engage in extracurricular, enrichment, cultural
7 and social activities, including sports, field trips
8 and overnight activities lasting one or more days;
9 and

10 (B) decisions involving the signing of
11 permission slips and arranging transportation for the
12 child to and from extracurricular, enrichment,
13 cultural and social activities.

14 (2) Verify, at yearly licensure reviews, that county and
15 private agencies providing out-of-home placement do all of
16 the following:

17 (i) Promote and protect the ability of a child to
18 participate in age-appropriate and developmentally
19 appropriate activities and experiences.

20 (ii) Implement policies consistent with this act.

21 (3) Develop standards and a process by which individuals
22 employed by child-care facilities are designated to make
23 decisions for children based on the reasonable and prudent
24 parent standard.

25 Section 6. County obligations.

26 A county agency shall do all of the following:

27 (1) Ensure that all out-of-home placement facilities
28 designate an individual to provide decision-making authority
29 under the reasonable and prudent parent standard for children
30 residing in their care. The individual designated should

1 consult with social workers or treatment staff members who
2 are most familiar with the child at the applicable facility
3 in applying and using the reasonable and prudent parent
4 standard.

5 (2) Consistent with its case and placement planning
6 responsibilities under Federal and State law, ensure that the
7 child's individual service plan provides the opportunity to
8 participate in age-appropriate and developmentally
9 appropriate activities and experiences to the greatest extent
10 possible to promote healthy child and adolescent development
11 consistent with Federal law and this act. A child's
12 individual service plan shall include goals and objectives,
13 and the child's progress toward meeting the goals and
14 objectives, for the following:

15 (i) Participation in extracurricular, enrichment,
16 cultural and social activities.

17 (ii) For a child who is 16 years of age or older,
18 providing opportunities to gain experience in mastering
19 independent living skills and managing freedom and
20 responsibility.

21 Section 7. Dispositional review and permanency hearings.

22 At a dispositional review hearing under 42 Pa.C.S. § 6351
23 (relating to disposition of dependent child), the court shall
24 make findings that the child be provided with the opportunity to
25 participate in age-appropriate and developmentally appropriate
26 activities and experiences, to the greatest extent possible, to
27 promote healthy child and adolescent development, consistent
28 with Federal law and this act.

29 Section 8. Notifications.

30 (a) Caregiver.--The appropriate county agency shall provide

1 a caregiver with written notification of the caregiver's
2 responsibilities and rights under this act. The notification
3 shall be provided at the time of the caregiver's licensure or
4 court approval and annually thereafter.

5 (b) Child.--The Office of Children, Youth and Families of
6 the department shall:

7 (1) Explain the rights of children under this act at
8 least annually as part of the family service and permanency
9 planning process and provide a child in an out-of-home
10 placement with a written explanation of the requirements of
11 this act. Consistent with the act of November 23, 2010
12 (P.L.1264, No.119), known as the Children in Foster Care Act,
13 the requirements of this paragraph shall be included in the
14 list of requirements under section 3 of the Children in
15 Foster Care Act, along with the explanation of the grievance
16 policy. A notation that these notifications have been
17 completed must be made in the child's record.

18 (2) Work with interested parties, including children, to
19 develop age-appropriate written materials that explain
20 children's rights under this act.

21 Section 9. This act shall take effect in 60 days.

APPENDIX D: Chapter 3700 Regulations

- Foster Family Care Agency Regulations

CHAPTER 3700. FOSTER FAMILY CARE AGENCY**INTRODUCTION**

- Sec.
3700.1. Applicability.
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3700.11. [Reserved].
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PROGRAM REQUIREMENTS

- 3700.31. Number of children allowed in a foster family home.
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HEALTH CARE REQUIREMENTS

- 3700.51. Medical and dental care.
3700.52. [Reserved].

REQUIREMENTS FOR FFCA APPROVAL OF FOSTER FAMILIES

- 3700.61. Transfer of approval authority.
3700.62. Foster parent requirements.
3700.63. Foster child discipline, punishment and control policy.
3700.64. Assessment of foster parent capability.
3700.65. Foster parent training.
3700.66. Foster family residence requirements.
3700.67. Safety requirements.
3700.68. [Reserved].
3700.69. Annual reevaluation.
3700.70. Temporary and provisional approvals of foster families.

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- 3700.71. Foster family file.
- 3700.72. Foster family approval appeals.
- 3700.73. Foster parent appeal of child relocation.

Authority

The provisions of this Chapter 3700 issued under Articles II, VII and IX of the Public Welfare Code (62 P. S. §§ 201—211, 701—774 and 901—922), unless otherwise noted.

Source

The provisions of this Chapter 3700 adopted October 1, 1982, effective October 1, 1982, 12 Pa.B. 3669, unless otherwise noted.

Cross References

This chapter cited in 55 Pa. Code § 3130.5 (relating to definitions); and 55 Pa. Code § 3800.3 (relating to exemptions).

INTRODUCTION

§ 3700.1. Applicability.

(a) This chapter applies to:

(1) An agency operated by a person, organization, corporation or society, public or private, for profit or not-for-profit, which approves or supervises foster families or provides foster family care.

(2) An individual providing foster family care to children placed by an approved foster family care agency.

(b) This chapter does not apply to agencies and homes licensed or approved by the Department's Offices of Mental Health and Mental Retardation.

Authority

The provisions of this § 3700.1 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.1 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (86949).

§ 3700.2. Goal.

The goal of this chapter is to reduce risk to children in placement; to protect their health, safety and human rights; to establish minimum requirements for the operation of a foster family care agency; and to establish minimum requirements to be applied by foster family care agencies when approving and supervising foster families.

Authority

The provisions of this § 3700.2 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.2 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (86949).

Notes of Decisions**Authority**

Section § 3700.61 delegates the authority to inspect for compliance with requirements covering health, 55 Pa. Code § 3700.51, safety, 55 Pa. Code § 3700.67, and necessary facilities, 55 Pa. Code § 3700.66, and approve foster homes to an approved foster family care agency as defined in 55 Pa. Code § 3700.4, so as to effectuate the purposes of the regulations set out in 55 Pa. Code § 3700.2. *In re Lowry*, 464 A.2d 333 (Pa. Super. 1983).

§ 3700.3. Legal base.

The legal base of this chapter is Articles II, VII and IX of the Public Welfare Code (62 P. S. §§ 201—211, 701—774 and 901—922); 42 Pa.C.S. §§ 6301—6365 (relating to the Juvenile Act); and the Child Protective Services Law (23 Pa.C.S. §§ 6301—6384) (relating to the Child Protective Services Law).

Authority

The provisions of this § 3700.3 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.3 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (86950).

§ 3700.4. Definitions.

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

Child—An individual who:

- (i) Is under 18 years of age.
- (ii) Is under 21 years of age, committed an act of delinquency before reaching 18 years of age and remains under the jurisdiction of the juvenile court.
- (iii) Is under 21 years of age, was adjudicated dependent before reaching 18 years of age, and while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed.

County agency—The single county children and youth social services agency.

Department—The Department of Human Services of the Commonwealth.

Family service plan or service plan—A written document describing short- and long-range objectives for the provision of care and services to a child and his family, prepared by the placing agency or individual.

Foster family—The living unit, including the foster family residence and foster parent, approved by a foster family care agency to provide foster family care to children.

Foster family care—Residential care and supervision provided to a child placed with a foster family.

Foster family care agency or FFCA—A public or private agency which recruits, approves, supervises and places children with foster families.

Foster family residence—The primary domicile of a foster parent. The residence may be owned or rented by the foster parent; or it may be provided to the foster parent by the FFCA.

Foster parent—An individual responsible for providing foster family care to children placed by an FFCA.

Individual Service Plan or ISP—A description of the activities which implement the family service plan.

Licensure or approval—The certification of FFCA and foster family compliance with this chapter.

Passive physical restraint—The least amount of direct physical contact required to prevent immediate harm to the child or others.

Placement—Twenty-four hour out-of-home care and supervision of a child.

Placing agency—The agency or individual with legal authority to refer or place a child for foster family care. Included are courts, county children and youth social service agencies and parents.

Authority

The provisions of this § 3700.4 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.4 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (86950) to (86951).

Notes of Decisions

Section 3700.61 delegates the authority to inspect for compliance with requirements covering health, 55 Pa. Code § 3700.51, safety, 55 Pa. Code § 3700.67, and necessary facilities, 55 Pa. Code § 3700.66, and approve foster homes to an approved foster family care agency as defined in 55 Pa. Code § 3700.4, so as to effectuate the purposes of the regulations set out in 55 Pa. Code § 3700.2. *In re. Lowry*, 464 A.2d 333 (Pa. Super. 1983).

§ 3700.5. Waivers.

(a) A waiver of a requirement of this chapter may be requested, by the legal entity, as specified in procedures established by the Department.

(b) Approval to waive a requirement of this chapter may be granted if the Department has determined that the need for the waiver is not due to simple non-compliance with this chapter, and the approval:

(1) Does not alter the applicability, scope or purpose of this chapter.

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(2) Is based on evidence, supplied by the requesting agency, that the objective of the requirement will be achieved in another way.

(3) Is based on evidence, supplied by the requesting agency, that a waiver will have no adverse effect on the health, safety and rights of children.

(4) Does not violate or condone noncompliance with Federal statutes and regulations or State statutes and regulations other than the requirement of this chapter for which the waiver is approved.

(5) Does not jeopardize receipt of Federal monies.

Authority

The provisions of this § 3700.5 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.5 adopted January 23, 1987, effective January 24, 1987, 17 Pa.B. 392.

§ 3700.11. [Reserved].

Source

The provisions of this § 3700.11 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (86951) to (86952).

§ 3700.12. [Reserved].

Source

The provisions of this § 3700.12 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (86952).

§ 3700.13. [Reserved].

Source

The provisions of this § 3700.13 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (86952).

§ 3700.14. [Reserved].

Source

The provisions of this § 3700.14 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (86952).

§ 3700.21. [Reserved].

Source

The provisions of this § 3700.21 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (75187).

PROGRAM REQUIREMENTS**§ 3700.31. Number of children allowed in a foster family home.**

FFCA's shall limit the number of children living with any foster family to six. The maximum of six children includes the foster parents' own children. Exception to this requirement may be made only with prior approval obtained in writing from the appropriate regional office of the Department.

Authority

The provisions of this § 3700.31 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.31 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (75187).

§ 3700.32. [Reserved].**Source**

The provisions of this § 3700.32 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (75187) to (75188).

§ 3700.33. [Reserved].**Source**

The provisions of this § 3700.33 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (75188).

§ 3700.34. Family service plan.

A private FFCA shall implement a family service plan and placement amendment as developed by the placing agency.

Source

The provisions of this § 3700.34 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (75188).

§ 3700.35. [Reserved].**Source**

The provisions of this § 3700.35 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (75189).

§ 3700.36. Discipline policies.

The FFCA shall provide foster parents with a copy of the discipline policy as described in § 3700.63 (relating to foster child discipline, punishment and control policy).

Authority

The provisions of this § 3700.36 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.36 amended January 23, 1987, effective July 23, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (75189).

§ 3700.37. [Reserved].**Source**

The provisions of this § 3700.37 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (75189) to (75190).

§ 3700.38. Orientation and information for foster families.

(a) The FFCA shall provide an orientation for new foster families before placing a child with them. The orientation shall include information about:

- (1) FFCA philosophy.
- (2) FFCA practices.
- (3) Roles of the foster family.
- (4) FFCA policies and procedures for discipline, punishment and control of foster children.
- (5) Roles of the FFCA in assisting the foster family in serving children.
- (6) First aid procedures.
- (7) Applicable statutes, regulations and general procedures.

(b) The FFCA supervising the foster family home shall give the foster families an emergency telephone number which provides 24-hour access to the FFCA.

(c) Foster families shall be provided information from the case record which is necessary to protect the child's health and safety and to assist in the child's successful accomplishment of necessary educational, developmental or remedial tasks.

(d) Foster families shall be provided information from the case record which will enable them to function safely and in cooperation with the FFCA.

Authority

The provisions of this § 3700.38 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.38 amended January 23, 1987, effective July 23, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (75190).

§ 3700.39. [Reserved].

Source

The provisions of this § 3700.39 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (75190).

HEALTH CARE REQUIREMENTS§ 3700.51. **Medical and dental care.**

(a) The FFCA shall ensure that a child receives a medical appraisal by a licensed physician within 60 days of the child's admission to foster family care, unless the child has had an appraisal within the last 90 days and the results of the appraisal are available. The appraisal shall include:

- (1) A review of the child's health history.
- (2) Physical examination of the child.
- (3) Laboratory or diagnostic tests as indicated by the examining physician, including those required to detect communicable disease.

(b) The FFCA shall arrange for immediate medical attention when a medical problem is recognized at the time of referral.

(c) After the initial health appraisal, the FFCA shall ensure that a child has contact with a licensed physician according to the following schedule:

<i>Age</i>	<i>Frequency</i>
Birth through 6 months	Once every 6 weeks
7 months through 23 months	Once every 3 months
23 months and older	Once a year

(d) The FFCA shall ensure that a child, 3 years of age or older, receives a dental appraisal by a licensed dentist within 60 days of admission, unless the child has had an appraisal within the previous 6 months and the results of the appraisal are available. The appraisal shall include:

- (1) Taking or reviewing the child's dental history.
- (2) Examination of the hard and soft tissue of the oral cavity.
- (3) X-rays for diagnostic purposes, if deemed necessary by the dentist.

(e) After the initial appraisals, the FFCA shall ensure that dental examinations are given to children 3 years of age or older at least once every 9 months of placement.

(f) The FFCA shall confirm the immunization record of the child within 60 calendar days of placement. An appropriate immunization schedule shall be established for the child based on his immunization status.

(g) The FFCA shall ensure that children receive necessary medical care when they are ill.

(h) The FFCA shall encourage parents to participate in the program of regular and appropriate medical and dental care for their child.

(i) The FFCA shall ensure that a continuing medical record is maintained for each child by assisting with retrieval of past medical records and transfer of current records to the child's ongoing source of child care.

Authority

The provisions of this § 3700.51 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.51 amended January 23, 1987, effective July 23, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (75190) and (97999).

Notes of Decisions

Authority

Section 3700.61 delegates the authority to inspect for compliance with requirements covering health, 55 Pa. Code § 3700.51; safety, 55 Pa. Code § 3700.67; and necessary facilities, 55 Pa. Code § 3700.66; and approve foster homes to an approved foster family care agency as defined in 55 Pa. Code § 3700.4, so as to effectuate the purposes of the regulations set out in 55 Pa. Code § 3700.2. *In re Lowry*, 464 A.2d 333 (Pa. Super. 1983).

§ 3700.52. [Reserved].

Source

The provisions of this § 3700.52 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (97999).

REQUIREMENTS FOR FFCA APPROVAL OF FOSTER FAMILIES

§ 3700.61. Transfer of approval authority.

The Department delegates its authority under Article IX of the Public Welfare Code (62 P. S. §§ 901—922) to inspect and approve foster families to an approved FFCA.

Authority

The provisions of this § 3700.61 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.61 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (98000).

Notes of Decisions

Appellate Review

The Department of Public Welfare's role, when an appeal is taken from a determination by a local Children and Youth Services, is to conduct a fact-finding hearing and not simply apply a "review" standard on appeal. *Children and Youth Services v. Department of Public Welfare*, 533 A.2d 1148 (Pa. Cmwlth. 1987).

Authority

Section 3700.61 delegates the authority to inspect for compliance with requirements covering health, 55 Pa. Code § 3700.51, safety, 55 Pa. Code § 3700.67, and necessary facilities, 55 Pa. Code § 3700.66, and approve foster homes to an approved foster family care agency as defined in 55 Pa. Code § 3700.4, so as to effectuate the purposes of the regulations set out in 55 Pa. Code § 3700.2. *In re Lowry*, 464 A.2d 333 (Pa. Super. 1983).

§ 3700.62. Foster parent requirements.

- (a) Foster parents shall be at least 21 years of age.
- (b) Foster parents shall pass an initial medical appraisal by a licensed physician prior to being approved. The appraisal must establish that the foster parents are physically able to care for children and are free from communicable disease. Further medical examinations may be required by the agency if the agency has reason to believe that additional medical appraisal is appropriate.
- (c) Effective January 1, 1986, foster family care agencies shall require prospective foster parents to comply with section 23.1 of the Child Protective Services Law (11 P. S. § 2223.1) and Chapter 3490 (relating to protective services).

Authority

The provisions of this § 3700.62 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.62 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (98000) to (98001).

Notes of Decisions

Foster Parent Requirements

Evidence that foster parents had placed pepper on the tongue of a foster child who refused to eat; tied a child to a bed; locked a child in a bedroom and strapped a child to a car seat located inside the home was sufficient to demonstrate that more than physical passive restraint was imposed, which was conduct prohibited by the regulations. *Martz v. Department of Public Welfare*, 536 A.2d 496 (Pa. Cmwlth. 1988).

The Department regulations addressing the inspection and approval of the home custodian reach concerns ranging from the assurances that the drinking water is potable, § 3700.67(h) (relating to safety requirements), and that the intended custodian is physically able to care for the child, § 3700.63 (relating to foster parent discipline policy), to the assurance that the custodian is apprised of the approved policy with regard to the discipline of the child, § 3700.63. *In re Lowry*, 484 A.2d 383 (Pa. 1984).

Cross References

This section cited in 55 Pa. Code § 3700.69 (relating to annual reevaluation); and 55 Pa. Code § 3700.70 (relating to temporary and provisional approvals of foster families).

§ 3700.63. Foster child discipline, punishment and control policy.**(a) Discipline.**

(1) Foster children shall be directed with techniques that stress praise and encouragement.

(2) Foster children may not be subjected to verbal abuse, derogatory remarks or threats of removal from the foster home.

(b) Punishment. The following forms of punishment are prohibited:

(1) Abusive discipline practices.

(2) Physical punishment inflicted upon the body.

(3) Punishment for bedwetting or actions related to toilet training.

(4) Delegation of punishment to another child.

(5) Denial of meals, clothing or shelter.

(6) Denial of elements of the service plan or ISP.

(7) Denial of communication with, or visits by, the child's family.

(8) Assignment of physically strenuous exercise or work solely as punishment.

(c) Control. Passive physical restraint is the only allowable method of restraining a child.

Authority

The provisions of this § 3700.63 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.63 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (98001).

Notes of Decisions**Home Inspections**

The Department regulations addressing the inspection and approval of the home custodian reach concerns ranging from the assurances that the drinking water is potable, § 3700.67(h) (relating to safety requirements), and that the intended custodian is physically able to care for the child, § 3700.63 (relating to foster parent discipline policy), to the assurance that the custodian is apprised of the approved policy with regard to the discipline of the child, § 3700.63. *In re Lowry*, 484 A.2d 383 (Pa. 1984).

Punishment

Department of Public Welfare regulation permitting foster parents to use "passive physical restraint" as a method of restraining a child and prohibiting foster parents from the use of any "physical punishment inflicted upon the body" binds all county children and youth agencies, but does not bind *In re D. T.*, 35 D.&C. 4th 454 (1998).

Evidence that foster parents had placed pepper on the tongue of a foster child who refused to eat; tied a child to a bed; locked a child in a bedroom and strapped a child to a car seat located inside the home was sufficient to demonstrate that more than physical passive restraint was imposed, which was conduct prohibited by the regulations. *Martz v. Department of Public Welfare*, 536 A.2d 496 (Pa. Cmwlth. 1988).

Cross References

This section cited in 55 Pa. Code § 3700.36 (relating to discipline policies); 55 Pa. Code § 3700.69 (relating to annual reevaluation); and 55 Pa. Code § 3700.70 (relating to temporary and provisional approvals of foster families).

§ 3700.64. Assessment of foster parent capability.

(a) The FFCA shall consider the following when assessing the ability of applicants for approval as foster parents:

- (1) The ability to provide care, nurturing and supervision to children.
- (2) A demonstrated stable mental and emotional adjustment. If there is a question regarding the mental or emotional stability of a family member which might have a negative effect on a foster child, the FFCA shall require a psychological evaluation of that person before approving the foster family home.
- (3) Supportive community ties with family, friends and neighbors.

(b) In making a determination in relation to subsection (a) the FFCA shall consider:

- (1) Existing family relationships, attitudes and expectations regarding the applicant's own children and parent/child relationships, especially as they might affect a foster child.
- (2) Ability of the applicant to accept a foster child's relationship with his own parents.
- (3) The applicant's ability to care for children with special needs, such as physical handicaps and emotional disturbances.
- (4) Number and characteristics of foster children best suited to the foster family.
- (5) Ability of the applicant to work in partnership with an FFCA.

Notes of Decisions

Foster Parent Capability

The Department regulations addressing the inspection and approval of the home custodian reach concerns ranging from the assurances that the drinking water is potable, § 3700.67(h) (relating to safety requirements), and that the intended custodian is physically able to care for the child, § 3700.63 (relating to foster parent discipline policy), to the assurance that the custodian is apprised of the approved policy with regard to the discipline of the child, § 3700.63. *In re Lowry*, 484 A.2d 383 (Pa. 1984).

In approving a foster home, the agency must consider, among other factors, the would-be foster parents' ability to cooperate with the agency and to accept the relationship between the child and the child's parents. *In Re Adoption of Crystal D.R.*, 480 A.2d 1146 (Pa. Super. 1984).

Cross References

This section cited in 55 Pa. Code § 3700.69 (relating to annual reevaluation); and 55 Pa. Code § 3700.70 (relating to temporary and provisional approvals of foster families).

§ 3700.65. Foster parent training.

A foster parent shall participate annually in a minimum of 6 hours of agency approved training.

Authority

The provisions of this § 3700.65 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.65 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (98002).

Notes of Decisions*Foster Parent Requirements*

The Department regulations addressing the inspection and approval of the home custodian reach concerns ranging from the assurances that the drinking water is potable, § 3700.67(h) (relating to safety requirements), and that the intended custodian is physically able to care for the child, § 3700.63 (relating to foster parent discipline policy), to the assurance that the custodian is apprised of the approved policy with regard to the discipline of the child, § 3700.63. *In re. Lowry*, 484 A.2d 383 (Pa. 1984).

Cross References

This section cited in 55 Pa. Code § 3700.69 (relating to annual reevaluation); and 55 Pa. Code § 3700.70 (relating to temporary and provisional approvals of foster families).

§ 3700.66. Foster family residence requirements.

- (a) The FFCA shall ensure that the foster family residence has:
- (1) At least one flush toilet, one wash basin and one bath or shower with hot and cold running water.
 - (2) An operable heating system.
 - (3) An operable telephone.
- (b) Sleeping areas shall meet the following criteria:
- (1) No unsuitable area such as a hall, stairway, unfinished attic or basement, garage, bathroom, eating area, closet, shed or detached building may be used as a sleeping area for children.
 - (2) Foster children of the opposite sex who are 5 years of age or older may not share the same bedroom.
 - (3) Each foster child shall be provided with a clean, comfortable mattress and clean linens, blankets and pillow.

Authority

The provisions of this § 3700.66 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.66 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (98003).

Notes of Decisions**Authority**

Section 3700.61 delegates the authority to inspect for compliance with requirements covering health, 55 Pa. Code § 3700.51, safety, 55 Pa. Code § 3700.67, and necessary facilities, 55 Pa. Code § 3700.66, and approve foster homes to an approved foster family care agency as defined in 55 Pa. Code § 3700.4, so as to effectuate the purposes of the regulations set out in 55 Pa. Code § 3700.2. *In re. Lowry*, 464 A.2d 333 (Pa. Super. 1983).

Foster Parent Requirements

The Department regulations addressing the inspection and approval of the foster family residence reach concerns ranging from the assurances that the drinking water is potable, § 3700.67(h) (relating to safety requirements), and that the intended custodian is physically able to care for the child, § 3700.63 (relating to foster parent discipline policy), to the assurance that the custodian is apprised of the approved policy with regard to the discipline of the child, § 3700.63. *In re. Lowry*, 484 A.2d 383 (Pa. 1984).

Cross References

This section cited in 55 Pa. Code § 3700.69 (relating to annual reevaluation); and 55 Pa. Code § 3700.70 (relating to temporary provisional approvals of foster families).

§ 3700.67. Safety requirements.

- (a) Medication and containers of poisonous, caustic, toxic, flammable or other dangerous material kept in the residence shall be distinctly marked or labeled as hazardous and stored in areas inaccessible to children under 5 years of age.
- (b) Emergency telephone numbers, including those for fire, police, poison control and ambulance, shall be conspicuously posted adjacent to all telephones.
- (c) Fireplaces, fireplace inserts, wood and coal burning stoves and free-standing space heaters, if allowed by local ordinance, shall be installed, equipped and operated according to manufacturers' specifications and requirements specified by local ordinance.
- (d) An operable smoke detector shall be placed on each level of the residence. The detector shall be maintained in operable condition.
- (e) A portable fire extinguisher, suitable for Class B fires, shall be available in the kitchen and other cooking areas. The extinguisher shall be tested yearly or have a gauge to ensure adequate pressure.
- (f) Protective safety caps shall be placed in electrical outlets accessible to children younger than 5 years of age.

- (g) Exposed electrical wires are prohibited.
- (h) Drinking water from an individual water source shall be potable as determined by an annual microbiological test conducted by a laboratory certified by the Department of Environmental Resources.
- (i) (Reserved).

Authority

The provisions of this § 3700.67 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.67 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (98005).

Notes of Decisions

Section 3700.61 delegates the authority to inspect for compliance with requirements covering health, 55 Pa. Code § 3700.51; safety, 55 Pa. Code § 3700.67, necessary facilities, 55 Pa. Code § 3700.66; and approve foster homes to an approved foster family care agency as defined in 55 Pa. Code § 3700.4, so as to effectuate the purposes of the regulations set out in this section. *In re Lowry*, 464 A.2d 333 (Pa. Super. 1983).

Cross References

This section cited in 55 Pa. Code § 3700.69 (relating to annual reevaluation); and 55 Pa. Code § 3700.70 (relating to temporary and provisional approvals of foster families).

§ 3700.68. [Reserved].

Source

The provisions of this § 3700.68 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (98005) to (98006).

Notes of Decisions

Placement in Unapproved Homes

In ordering a disposition under 42 Pa.C.S. § 6351 (relating to disposition of dependent child), the court does have the authority to order the county institution district to place children in homes not yet approved, even though the provisions of subsection (b) and § 3130.39 (relating to services and facilities which may be used) prohibits the county institution district from doing so on its own initiative and the Superior Court judgment was reversed. *In re Lowry*, 484 A.2d 383 (Pa. 1984).

The courts cannot order a County Children and Youth Services agency to supervise the placement of a dependent child in a foster home that had not been inspected and approved by a foster family care agency, under this section. *In re Lowry*, 464 A.2d 333 (Pa. Super. 1983).

§ 3700.69. Annual reevaluation.

- (a) The FFCA shall visit and inspect annually each foster family to determine continued compliance with the requirements of §§ 3700.62—3700.67 (relating to foster parent requirements; foster child discipline, punishment and control policy;

assessment of foster parent capability; foster parent training; foster family residence requirements; and safety requirements).

(b) The FFCA shall give each foster family written notice regarding the results of the annual evaluation.

(c) The FFCA shall give written notice to foster families of its decision to approve, disapprove or provisionally approve the foster family. The written notice shall inform the foster parents that they may appeal the FFCA's decision to disapprove or provisionally approve the foster family.

Authority

The provisions of this § 3700.69 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.69 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (98006).

§ 3700.70. Temporary and provisional approvals of foster families.

(a) Foster families may be temporarily approved to provide foster care to children.

(1) Temporary approval is a time-limited status which may be authorized by an FFCA when a complete assessment of the foster family has not been made prior to the placement of a foster child.

(2) The FFCA may authorize temporary approval only if a partial assessment of the family indicates that a foster child's health or safety will not be jeopardized if placed with the temporarily approved foster family. The partial assessment shall include, at a minimum, the following:

- (i) An on-site visit to the home.
- (ii) An inspection of the physical aspects of the home.
- (iii) A brief assessment of the social and emotional qualities of the parents as they affect their ability to care for a foster child.
- (iv) The willingness of the parents to accept FFCA involvement and work cooperatively with the FFCA.
- (v) The ability of the parents to meet the special needs of a child taken into the temporary protective custody of an agency.

(3) Temporary approval of a foster family may be authorized for a maximum of 60 calendar days, starting from the date on which the FFCA places the foster child with the foster family.

(4) If an assessment verifying compliance with the requirements of §§ 3700.62—3700.67 (relating to foster parent requirements; foster child discipline, punishment and control policy; assessment of foster parent capability; foster parent training; foster family residence requirements; and safety require-

ments) is not completed by the FFCA within 60 days, the approval of the home terminates automatically, and foster children shall be removed from the foster family.

(b) Foster families may be given provisional approval to care for foster children.

(1) Provisional approval of a foster family may be authorized by an FFCA when a previously approved foster family is determined, in a reevaluation, not to meet one or more of the requirements in §§ 3700.62—3700.67.

(2) The FFCA may authorize provisional approval only if the identified areas of regulatory noncompliance will not result in an immediate threat to the health or safety of foster children placed with the foster family.

(3) During a period of provisional approval, the FFCA may not place additional children with the foster family.

(4) For foster families approved before October 1, 1982, provisional approval may be maintained until children placed before October 1, 1982, have left the foster family.

(5) For foster families approved after October 1, 1982, provisional approval may be maintained for no longer than 12 months. The FFCA shall terminate the provisional approval of a foster family unable to achieve compliance within 12 months of receipt of provisional approval. Upon termination of

a foster family's provisional approval, the FFCA shall remove foster children living with the foster family.

(c) (Reserved).

Authority

The provisions of this § 3700.70 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.70 amended January 23, 1987, effective January 24, 1987 except subsection (a) effective April 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (98006) to (98007).

§ 3700.71. Foster family file.

The FFCA shall maintain a file for each foster family home. The file must contain a copy of the foster family home approval and the results of each annual foster family home reevaluation.

Notes of Decisions

Children in Foster Care—Disclosure of File

Appellants, a minor child and the child's grandmother, were entitled to receive the foster family file pursuant to this regulation. *S. M. ex rel. R.M. v. Children & Youth Services of Delaware County*, 686 A.2d 872 (Pa. Cmwlth. 1996).

§ 3700.72. Foster family approval appeals.

(a) The FFCA shall give written notice to each applicant of its decision to approve, disapprove or provisionally approve the foster family. The written notice shall inform the foster parents that they may appeal the FFCA's decision to disapprove or provisionally approve the foster family.

(b) Foster parents who wish to appeal an FFCA decision to disapprove or provisionally approve the foster family shall submit to the FFCA a written appeal. The appeals are subject to 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(c) Appeals related to the Department's approval shall be made by filing a petition within 30 days after service of notice of the action.

(d) Upon receipt of the foster parent appeal, the FFCA shall date stamp the appeal. The FFCA shall review the appeal and determine if steps can be taken to resolve the appeal without a hearing. If, after considering the appeal, the FFCA is unable to resolve issues of disagreement, the appeal shall be sent to the Office of Hearings and Appeals, Post Office Box 2675, Harrisburg, Pennsylvania 17105 within 15 calendar days of the date stamp.

(e) Subsection (c) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

Authority

The provisions of this § 3700.72 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

3700-17

Source

The provisions of this § 3700.72 amended January 23, 1987, effective April 24, 1987, 17 Pa.B. 392; amended October 3, 2008, effective November 3, 2008, 38 Pa.B. 5435. Immediately preceding text appears at serial pages (257555) to (257556).

Notes of Decisions**Timeliness**

Trial court did not err when it determined that grandmother was disqualified as a foster parent and placement resource for children in child dependency proceeding; grandmother did not appeal court's decision to affirm removal of child from her home until nine months after decision rather than within the 30 days required by regulation. *In Re D.S.*, 979 A.2d 901, 905-906 (Pa. Super. 2009).

§ 3700.73. Foster parent appeal of child relocation.

(a) Foster parents may appeal the relocation of a child from the foster family except under one of the following conditions:

- (1) The child has been with the foster family less than 6 months.
- (2) The removal is initiated by the court.
- (3) The removal is to return the child to his parents.
- (4) The removal is to place the child for adoption.
- (5) An investigation of a report of alleged child abuse indicates the need

for protective custody removal to protect the child from further serious physical or mental injury, sexual abuse or serious physical neglect as defined in Chapter 3490 (relating to protective services).

(b) The FFCA shall inform foster parents in writing that they may appeal the relocation of a child in accordance with subsection (a) at least 15 days prior to the relocation of the child.

(c) Foster parents who wish to appeal the relocation of a child shall submit to the FFCA a written appeal to be postmarked no later than 15 days after the date of the notice of their right to appeal the child's relocation.

(d) Upon receipt of the foster parent's appeal, the FFCA shall date stamp the appeal and submit it to the Department's Office of Hearings and Appeals, Post-Office Box 2675, Harrisburg, Pennsylvania 17105, within 5 working days.

(e) If a foster parent submits an appeal in accordance with subsection (c) and the foster parent has the right to appeal in accordance with subsection (a), the child shall remain in the foster family home pending a decision on the appeal.

(f) Parties to an appeal of a child's relocation may be represented by an attorney or other representative.

Authority

The provisions of this § 3700.73 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.73 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (98007) to (98008).

Notes of Decisions**Adoption Proceedings**

Foster parents do not have standing to commence adoption proceedings without the consent of the child welfare agency which has legal custody. *Chester County Children & Youth Services v. Cunningham*, 656 A.2d 1346 (Pa. 1995).

Prospective adoptive parents are sufficiently distinguishable from foster parents to give standing to seek judicial review of an agency's decision regarding custody of a child. *Mitch v. Bucks County Children and Youth Social Service Agency*, 556 A.2d 419 (Pa. Super. 1989); appeal denied 571 A.2d 384 (Pa. 1989).

Custody Award

While the legislature has provided foster parents with a specific administrative remedy where their foster child is to be relocated, no such similar provision has been provided specifying that foster parents are permitted to seek or contest a custody award of their foster child where relocation is imminent; based on the foregoing, the Supreme Court concluded that foster parents lacked standing to seek or contest custody of their foster child, who had been adjudicated dependent. *In re G. C.*, 735 A.2d 1226 (Pa. 1999).

Protection of Child

Given the need for protective custody, foster parents did not have the right to insist that the foster children be left in their home pending a decision on appeal. *Martz v. Department of Public Welfare*, 536 A.2d 496 (Pa. Cmwlth. 1988).

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