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## **TITLE 214 – DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES**

### **CHAPTER 40 – Licensing**

#### **SUBCHAPTER 00 - N/A**

#### **PART 3 – Foster Care and Adoption Regulations for Licensure**

### **3.1 PURPOSE**

These Regulations contain the licensing requirements for foster care and adoptive homes licensed by the Department of Children, Youth and Families. These licensing requirements are designed to ensure children who are in foster care and pre-adoptive homes are safe, healthy, and cared for in a nurturing environment.

### **3.2 AUTHORITY**

These Regulations are promulgated pursuant to R.I. Gen. Laws Chapter 42-72, R.I. Gen. Laws §§ 42-72.1-5, 42-72.1, 42-72.10-1, 14-1-27, 14-1-34, and 15-7-11.

### **3.3 APPLICATION**

The terms and provisions of these Regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

### **3.4 SEVERABILITY**

If any provision of these Regulations or application thereof to any person or circumstances is held invalid by a court of competent jurisdiction, the validity of the remainder of the Regulations are not affected.

### **3.5 DEFINITIONS**

- A. "Adoptive parent" means Adult head of household, also referred to as caregiver, who is licensed to receive children into the home for the purpose of adoption. Pre-adoptive parent is also referred to as adoptive parent. There may be one or two adoptive parents in the household.
- B. "Applicant" means person applying for a Foster Care and Adoption License.

- C. "Caregiver" means adult head of household, also referred to as foster parent, pre-adoptive parent or adoptive parent, who is granted a license by the Department to provide foster care or to adopt.
- D. "Child in care" means child or youth, also referred to as a foster or pre-adoptive child, under the care and supervision of the Department residing in a foster or pre-adoptive home.
- E. "Child" means any person under the age of eighteen living in the caregiver's home and/or a youth over the age of 18 placed by the Department.
- F. "Corporal punishment" means physical discipline, including slapping, spanking, paddling, hitting with a belt, having a child march, stand or kneel rigidly in one spot or subjecting a child to any kind of physical discomfort.
- G. "Department" means the Rhode Island Department of Children, Youth and Families, also referred to as DCYF, responsible for child welfare, children's behavioral health and juvenile correctional operations in Rhode Island.
- H. "Family Service Unit (FSU) social case worker" means DCYF worker, also referred to as primary worker, who provides ongoing social services and case management to children and families who have become involved with the Department due to abuse, neglect, wayward or dependency, as well as children who are in need of behavioral and/or mental health services.
- I. "Foster care and adoption license" means required legal authorization granted by the Department that permits caregivers to provide foster and/or adoptive care.
- J. "Foster parent" means adult head of household, also referred to as caregiver, who is granted a license by the Department to provide foster care. There may be one or two foster parents in the household.
- K. "Generic foster parent" means a licensed foster and/or pre-adoptive care provider, also referred to as caregiver, not previously known or related to the child in care.
- L. "Health history" means information about an individual's past and present physical and mental health, which can include medical records and/or written documentation about treatment.
- M. "Home study" means a written evaluation of a home environment to determine whether a proposed placement of a child meets the individual needs of the child, including the child's safety, permanency, health, well-being and mental, emotional, and physical development. Common areas of inquiry include physical and mental health, criminal history, family history, and past and present relationships.

- N. "Household" means adults and children who reside with the applicant or caregiver.
- O. "Kinship foster parent" means adult head of household, also referred to as caregiver, who is granted a license by the Department to provide foster care for a related child in care or a child with whom the adult has a kinship bond. The kinship foster parent may be a relative or a member of the child's family support system, such as a godparent, close family friend or member of the child's community. There may be one or two kinship foster parents in the household.
- P. "Licensing unit" means the division within the Department responsible for issuing Foster and Adoption Licenses.
- Q. "Reasonable and prudent parenting standard" means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that the caregiver uses when determining whether to allow a child in care to participate in extracurricular, enrichment, cultural, and social activities.
- R. "Variance" means administrative decision that allows a foster or pre-adoptive home to meet a standard for licensure in a manner other than that specified in the regulations. A variance is granted on a case-by-case basis only when the purpose of the licensing standard is achieved and the safety of the child is maintained.
- S. "Waiver" means administrative decision that allows case by-case exemptions from compliance with a non-safety related standard.

## **3.6 LICENSING PROVISIONS**

### **3.6.1 Application and Licensing Process**

- A. Applicant submits an application, signed releases, and confirmation that the applicant received the Foster Parent Bill of Rights.
- B. Home Study
  - 1. Each applicant and household member must participate in a home study.
  - 2. The home study consists of a summary of any Department contact with the applicant's family and a description of the home, community, family and social relationships and includes the following information:
    - a. a summary of the applicant's relationships with his or her biological and/or adopted children, past and present spouses or partners, and other family members;

- b. an assessment of the applicant's parenting ability and motivation for fostering or adopting a child;
- c. criminal records checks for all household members age 18 and older in accordance with the Department's Criminal Background Checks policy;
- d. child protective services clearances for all household members to include out-of-state Adam Walsh clearances, if applicable, in accordance with the Department's Clearance of Agency Activity policy;
- e. a health history for each applicant; and
- f. a home safety inspection.

C. Health History

- 1. Applicants must submit documentation regarding his or her physical health, mental health and/or substance abuse history. Documentation may include, but is not limited to, a signed physician's note, medical records, or a copy of a physical exam.
- 2. The Department may request a statement from a qualified medical professional familiar with the applicant or household member's physical or mental health history, including alcohol and drug use, to ensure that no member of the household has an illness or condition that presents a health or safety risk to a child in the home, or hinder the caregiver's ability to provide appropriate care.

D. Training

- 1. Each applicant for a Foster Care and Adoption License must successfully complete a course of pre-service training as required by the Department.

**3.6.2 Determination**

A. Upon successful completion of the licensing process, the Department takes one of the following actions within thirty days:

- 1. Issue a license.
  - a. A Foster Care and Adoption License applies only to the place of residence occupied by the applicant at the time of issuance.
  - b. If a caregiver moves, the Department conducts an address change licensing visit and safety inspection to determine compliance with

all of these regulations prior to the issuance of a Foster Care and Adoption License to the new residence.

2. Deny the application and inform the applicant of the right to appeal (refer to § 3.6.6 of this Part, APPEAL/HEARING below).

B. A license may be denied for the following reasons:

1. Applicant or household member has disqualifying criminal activity.
2. Applicant or household member has been convicted of a criminal offense that is not automatically disqualifying if that conduct has an impact upon the fitness and suitability of the applicant to provide care for a child.
3. Applicant or household member has a history of disqualifying child protective services activity.
4. Applicant or household member has a history of child protective services activity that is not automatically disqualifying but that history has an impact upon the fitness and suitability of the applicant to provide care for a child.
5. Applicant or other member of the household has a past or current history of substance abuse deemed to be currently detrimental to the care of children.
6. Applicant or other member of the household has a physical health or mental health condition that presents a health or safety risk to any child and may interfere with the caregiver's ability to provide satisfactory care.
7. The applicant may be denied if the child protective services check indicates that a child protective services investigation is pending or if there is a substantiated report of child abuse or neglect on any member of the household.
8. The biological parent or legal guardian of the child in care resides with the applicant.
9. Applicant fails to cooperate with the Department in its licensing process, including the falsification or omission of facts.
10. Applicant fails to comply with any of these regulations.

C. A Foster Care and Adoption license remains valid until licensing renewal, or as otherwise consistent with R.I. Gen. Laws § 42-72.1-5, unless the Department initiates licensing action for cause or the licensee voluntarily surrenders the license prior to that time.

### **3.6.3 Variance and Waiver**

The DCYF Director or designee may grant a variance or a waiver for a specific timeframe when the situation does not jeopardize the health, safety and well-being of the children in care.

### **3.6.4 Revocation and Other Licensing Actions**

- A. Licensing actions include the following:
  - 1. Requirement that the caregiver attend corrective or in-service training.
  - 2. Limit on the number of foster and/or pre-adoptive children placed in a home.
  - 3. Revocation of license.
  
- B. A license may be revoked for the following reasons:
  - 1. Caregiver or any household member is convicted of an offense or has an arrest that is pending disposition.
  - 2. Caregiver or any household member has child protective services involvement deemed detrimental to the care of children.
  - 3. Caregiver or any household member poses an immediate safety risk to the child in care.
  - 4. Caregiver does not protect a child from physical or emotional harm due to failure to provide adequate supervision appropriate to the child's needs and level of development.
  - 5. Caregiver or any other member of the household threatens to harm a child.
  - 6. Caregiver fails to cooperate with the Department in its licensing process, including the falsification or omission of facts.
  - 7. Caregiver fails to comply with any of these regulations or with any federal or Rhode Island law relating to the care of children.
  
- C. Procedure for review relating to possible licensing actions
  - 1. If there is reasonable cause to believe that there is imminent danger to the physical and/or emotional well-being of the child in care:
    - a. Concurrent with or subsequent to the removal, the caregiver is notified immediately of the decision to remove the child in care from the home.

- b. Regardless of whether the child in care is removed from the home, the following protocol is followed when licensing action is considered:
    - (1) the licensing administrator sends notice by mail informing the caregiver that DCYF is considering a licensing action and provides notice of the facts that may warrant this action;
    - (2) the letter indicates a willingness to meet with the caregiver and provides a date and time for the meeting; and
    - (3) at the meeting, the caregiver is given opportunity to show cause why the action should not be taken.
  - c. If, after the meeting, the facts continue to appear to warrant licensing action, written notification of that licensing action is sent to the caregiver within 10 working days.
  - d. The caregiver is notified of his or her right to appeal the decision through an administrative hearing.
2. Subsequent to the initiation of licensing action by the Department, the caregiver may appeal the action in compliance with Department grievance procedures.

### **3.6.5 Child Care Provider Seeking a Foster and Adoptive License**

- A. A family child care home provider is permitted to apply for a Foster and Adoptive License if the following criteria are met:
  - 1. Applicant holds a family child care home license and does not have any violations of any licensing regulations for the past two years.
  - 2. Applicant must demonstrate the ability to comply with Family Child Care Home and Foster Care and Adoption Regulations for Licensure.

### **3.6.6 Appeal/Hearing**

- A. Any applicant for licensure or licensee may appeal any action or decision of a Departmental staff person, supervisor or administrator that is adverse to the status as an applicant or license holder.
- B. Appeals are made in accordance with the Department's Complaints and Hearings policy.

### **3.6.7 Renewal**

- A. A Foster Care and Adoption License is renewed every two years.

- B. When requesting a license renewal, the caregiver must demonstrate compliance with these licensing regulations.
- C. For licensing renewal approval, the caregiver must undergo an updated home study to include:
  - 1. Home visit(s) from Department licensing staff;
  - 2. Child protective services clearances on all household members;
  - 3. Updated statewide BCI checks on all household members age 18 and older;
  - 4. National criminal records checks (fingerprinting) for any household member age 18 and older with no national criminal record check documentation currently on file with the Department;
  - 5. Updated health history; and
  - 6. Home safety inspection.

### **3.7 LICENSING STANDARDS**

#### **3.7.1 General Requirements**

- A. Family Composition
  - 1. One or two adults as head of household may receive a Foster and Adoption License.
  - 2. The total number of foster and pre-adoptive children does not exceed five. Each home's capacity to accommodate a foster or pre-adoptive child is assessed individually.
  - 3. The total number of children in the household does not exceed seven, including biological, adopted, foster and pre-adoptive children.
  - 4. Caregiver must not care for more than two children less than 2 years of age or four children less than 6 years of age at any time, to include all children in the home.
  - 5. Caregiver must demonstrate the ability to meet the needs of all children living in the home.
  - 6. Caregiver may not provide care for non-related adults and children.
  - 7. Exceptions to these Family Composition requirements may be made to accommodate siblings in care.

B. Age

Caregiver is at least 21 years of age.

C. Health

Caregiver and any household member must not have a physical, behavioral or mental health condition that the Department determines may adversely affect the child in care or the child's care, as determined by § 3.6.1(C) of this Part, Health History.

D. Income and Fiscal Management

1. Caregiver demonstrates that he or she is able to exercise appropriate fiscal management.
2. Caregiver uses the foster maintenance, birthday, clothing and holiday allowance/ payment solely to meet the individual needs of the child in care.

**3.7.2 Safety and Well-Being**

A. General Safety Requirements

1. Caregiver's home and any structures on the property including outdoor recreation equipment are maintained in a clean, safe and sanitary condition and kept in a reasonable state of repair.
2. Caregiver's home and grounds are free of hazards to ensure the safety of a child and comply with all state and local codes and ordinances.
3. Garbage must be removed from the house on a regular basis and stored outside in covered containers or closed bags.
4. A child must be protected through the use of physical barriers or adult supervision from potentially hazardous outdoor areas, such as bodies of water, open pits or wells, cliffs or caves, high speed or heavily traveled roads and electrical equipment and machinery.
5. The residence must be adequately heated, safely lit, well ventilated, properly plumbed and have a continuous supply of safe drinking water.
6. Pools must be fenced according to local and state codes.
7. Bleach, cleaning materials and any poisonous or corrosive household chemicals must be stored in a safe area, inaccessible to a young child.
8. Prescription and over-the-counter drugs and alcohol must be stored out of reach of a child.

9. A child in care must not be exposed to second hand smoke in the caregiver's home or vehicle by any member of the provider family or visitor of that family.
10. All locking doors within the residence must be able to be unlocked from both sides.

**B. Fire and Safety Inspections**

1. Inspections required by these regulations are conducted by the Department or other authorities having jurisdiction. Issuance of a Foster and Adoptive License is contingent upon approval of the applicant's residence in accordance with state fire and building codes.
2. Caregiver must grant Department Licensing staff access to all areas of the home and property for a visual inspection.
3. Foster homes must be equipped with a smoke detector system and carbon monoxide detectors. Smoke detectors are located in all common hallways.
  - a. Single and two family homes must be equipped with a battery pack or hard-wired smoke detector system.
  - b. Three family apartment homes must be equipped with smoke and carbon monoxide detectors that either are hardwired or wireless units.

**C. Emergency and Disaster Procedures**

1. Caregiver must have an approved written disaster and emergency response plan for the household in the event of an emergency.
2. Caregiver contacts the Department as soon as possible after a disaster. If the emergency is after business hours or during the weekend, or if the caregiver is unable to reach staff during normal business hours, the caregiver contacts the CPS Hotline.

**D. Lead Paint Safety**

1. Caregiver's residence must comply with statutory lead inspection and abatement requirements for private residences consistent with state law.

**E. Firearm and Weapon Safety**

1. The Department must be informed if a resident of the household owns or possesses any firearm. Possession or ownership of firearms must conform to state and local laws.

2. Any firearm, air rifle, hunting slingshot, other projectile weapon, or self-defense weapons (e.g. pepper spray or taser) must be stored in a locked area inaccessible to a child.
3. Any ammunition, arrows or projectiles for weapons must be stored separately from the weapon or firearm in a locked space.

F. Telephones and Emergency Numbers

1. There must be a working telephone in the caregiver's home that is readily available for use in case of an emergency.

G. Pet Safety

1. Dogs, cats and other pets or domestic animals maintained on the premises must be kept in a safe and sanitary manner, according to state and local requirements.
2. Pets maintained on the premises must have up-to-date rabies vaccinations as appropriate.
3. A child must, according to his or her age and developmental level, be protected from animals that are potentially dangerous to the child's health.

H. Sleeping Arrangements

1. All bedrooms for children must have at least one window and one closing door and may be used only as bedrooms.
2. Living rooms, dining rooms and halls must not be used as bedrooms for a child in care or any other member of the household.
3. All rooms used as bedrooms must meet all state and local codes.
4. Each child must have his or her own bed of a type and size appropriate to the child's stage of development and approved by the Department.
  - a. No child under the age of six is allowed to sleep on the top bunk.
  - b. No child under the age of three is allowed to sleep on a waterbed or air mattress at any time.
5. Each infant, up to one year of age, must sleep in a safe environment in accordance with the American Academy of Pediatrics (AAP) SIDS and Other Sleep-Related Infant Deaths: Updated 2016 Recommendations for a Safe Infant Sleeping Environment.

6. Except for a child under the age of one year, sufficient sleeping space must be available so that no child in the household shares the bedroom with any adult.
7. Except for a child under the age of one year, space is provided within the bedroom for the child's personal possessions and for a reasonable degree of privacy.
8. A child three years of age or older must not share a bedroom with any child of the opposite sex except:
  - a. When it is necessary to facilitate the placement of sibling groups; or
  - b. To meet the needs of transgender or gender non-conforming youth.
9. No more than four children are permitted to sleep in one bedroom.

### **3.7.3 Provision of Services**

#### **A. Caregiver Personal Characteristics and Abilities**

1. Caregiver demonstrates the competence, interpersonal qualities and life experiences that enable him or her to provide quality care.
2. Caregiver meets the physical, emotional, social, developmental, treatment, educational, cultural and permanency needs of the child in care.
3. Caregiver provides the child with opportunities to engage in activities that are generally considered normal for the child's age and stage of development.
4. Caregiver encourages the youth to engage in extracurricular activities that promote well-being.

#### **B. Confidentiality**

1. Information about a child in care and his or her family must be held in confidence by the caregiver and any household member.
2. Caregiver must not allow photographs, sketches, videos, identifying information or names of children in care to be shared with anyone other than immediate family members or used in any material that will be available to the public. This includes the internet, caregiver's social media networks, television and any publication such as a newspaper, newsletter or magazine.

#### **C. Supervision**

1. Each child must be supervised at all times in a manner appropriate to the child's needs and level of development.
2. When the caregiver is absent from the home for any reason, the caregiver applies the reasonable and prudent parenting standard to determine the appropriate supervision needs of the child.
  - a. Overnight sitters must be at least 18 years old.
  - b. If the absence of the caregiver is on a regular basis, the child care arrangements must be approved by the Department.

D. Behavior Management

1. Caregiver uses discipline solely to teach a child appropriate behavior in a manner consistent with the child's age and developmental level.
2. Discipline must be:
  - a. Individualized and consistent for each child;
  - b. Appropriate to the child's level of understanding; and
  - c. Directed toward teaching the child acceptable behavior and self-control.
3. There must be no harsh, cruel or unusual treatment of any child. Discipline methods to include, but not limited to the following, is prohibited:
  - a. Corporal punishment or threats of corporal punishment;
  - b. Punishment associated with food, naps or toilet training;
  - c. Pinching, shaking or biting a child;
  - d. Hitting a child with a hand or instrument;
  - e. Putting anything in a child's mouth;
  - f. Humiliating, ridiculing, rejecting or yelling at a child;
  - g. Subjecting a child to harsh, abusive or profane language;
  - h. Placing a child in a locked or dark room, bathroom or closet; and
  - i. Requiring a child to remain silent or inactive for inappropriately long periods for the child's age.

E. Transportation

1. Caregiver must have access to reliable transportation to ensure that the child in care has access to school, community services and the Department.
2. Any vehicle used to transport a child must be maintained in a safe condition and in compliance with state motor vehicle laws.
3. A child transported in a motor vehicle must be in an appropriate child safety restraint or seat belt, in accordance with federal and state law.
4. A child must be transported in vehicles covered by liability insurance.
5. Anyone who transports a child must have a valid driver's license.

#### F. Medical Care

1. Caregiver informs the Department of any medical care or treatment provided to the child in care.
2. Caregiver arranges for the child in care to receive timely medical care by a licensed practitioner to include routine and periodic examinations, vaccinations, prescribed treatment, vision and dental care with annual examinations and any follow-up treatment.
3. Except in emergencies, the caregiver makes no decisions regarding major medical or surgical intervention, including the use of psychotropic medication, without the prior approval of the Department.

#### G. Education

1. Caregiver ensures that the child in care continues to attend his or her school or the caregiver enrolls the school age child in care in an appropriate school within five school days of the child's placement into the home as indicated by the Department.
2. No child in care is to be home-schooled.

#### H. Children's Money

1. Money earned, received as a gift or received as an allowance is the child's personal property.
2. Caregiver provides a child in care above the age of five years a reasonable allowance at least weekly.
3. Caregiver does not require a child in care to assume any part of the expenses relating to his or her care.

#### I. Visitation and Contacts

1. The caregiver supports visitation between the child in care and his or her family as outlined in the child's service plan.
2. Reasonable opportunity is provided for the child to use the caregiver's home telephone to contact family and friends.
3. Caregiver must not restrict or censor correspondence to or from the child in care, except in accordance with the child's service plan.

J. Religion

1. The caregiver must not require or deny any religious observance or practice of a child in care, except upon the written request of the parent or guardian.
2. Caregiver must notify and receive approval from the Department before any change is made in the religious affiliation of a child in care.

K. Employment and Household Chores

1. The child in care is not forced to work nor denied the opportunity to work.
2. A child in care is not required to perform household chores in a manner dissimilar to any other child in the household of similar age or ability.

L. Clothing

1. Caregiver ensures that each child has clean, well-fitting and seasonal clothing that is age and gender appropriate.
2. The child is permitted to take all of his or her clothing upon leaving the caregiver's home.
3. In the event of an unplanned discharge, the caregiver makes reasonable provisions to protect the child's property.
4. All monies provided by the Department for clothing for a child in care must be expended exclusively on clothing for that child.
5. If the child leaves the home prior to receiving the clothing allowance check, the caregiver must return the check to the Department.

M. Personal Belongings

1. A child in care is allowed to bring personal belongings to the caregiver's home.
2. Caregiver makes reasonable provisions for the protection of a child's property.

3. Caregiver ensures that the child in care is provided with his or her personal belongings when the child departs the caregiver's home.

N. Personal Hygiene

1. The caregiver ensures that each child has the necessary articles for his or her own use to maintain personal hygiene.
2. The caregiver ensures the proper hygiene of a child in care that is unable to maintain hygiene on his or her own.

O. Social and Recreational Activities

1. The caregiver provides regular opportunity for social and recreational activities that are appropriate to the age and abilities of the child in care.
2. The caregiver makes reasonable and prudent parenting decisions regarding a child's participation in social and recreational activities. The Department's prior approval of such decisions is not required.

P. Meals

1. The caregiver provides the child in care with a minimum of three well-balanced and nutritious meals each day at regular times.
2. The caregiver must not exclude the child from family meals.
3. The caregiver provides for any special dietary needs for the child as determined by a proper medical authority or dictated by the child's religion or culture.
4. Meals are never withheld as a punishment to the child.

Q. Required Notification

1. The caregiver notifies the DCYF primary worker prior to allowing any person to visit in the home for a period in excess of 24 hours.
2. The caregiver notifies the Department prior to making plans for the care of the foster or pre-adoptive child by another person for a period in excess of 48 hours.
3. The caregiver notifies the Department immediately in any of the following instances:
  - a. Death of a child.
  - b. Serious injury or illness involving medical treatment of a child.

- c. Serious emotional or behavioral crisis that may endanger the child in care or others.
  - d. When a child has been subjected to alleged abuse or neglect or has been the alleged victim of assault or other physical or sexual abuse.
  - e. Unauthorized absence of the child in care from the home.
  - f. Removal of the child in care from the home by any person or agency other than the placing agency, or any attempts at such removal.
  - g. Any fire or other emergency requiring overnight evacuation of the premises.
  - h. Any exclusion of a child in care from school or involvement with police.
  - i. Any changes in the household composition.
  - j. Any pending criminal charges or arrests of the caregiver and/or any household member.
4. The caregiver informs the Department as soon as possible, but not more than five working days following any circumstance listed below:
- a. Any serious illness or death in the household.
  - b. The permanent departure of any member of the household.
  - c. Any other circumstance or incident seriously affecting the child or the child's care.
5. The caregiver must contact the Department prior to permitting any media interviewing or photographing of a child in care.
6. The caregiver informs the Department at least four weeks prior to a planned move of residence.
7. Caregiver notifies the Department by the end of the next working day of any fire within the residence requiring the services of the fire department.
8. Caregiver notifies the Department within seven working days prior to taking the child in care out of state for more than 24 hours.

R. Removal Requests

1. If the caregiver wishes to request the removal of a child in care, he or she submits a written notice to the Department outlining the reasons why the child's removal is being requested, in accordance with Department policy, Request for Removal of Child from Foster Care Home.
2. The Department provides written notification to the caregiver regarding any decision to move a child in care from the home.
3. This notification is waived when the child in care is being moved due to safety issues in the placement, when removal has been court ordered, or the return of the child has been requested by a parent or guardian in accordance with the terms of a voluntary agreement.