



# Office of Children and Family Services

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## Administrative Directive

<b>Transmittal:</b>	20-OCFS-ADM-08
<b>To:</b>	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
<b>Issuing Division/Office:</b>	Strategic Planning and Policy Development Child Welfare and Community Services
<b>Date:</b>	June 1, 2020
<b>Subject:</b>	<b>Approval of Emergency Foster Boarding Homes and Expanded Waiver Authority</b>
<b>Suggested Distribution:</b>	Directors of Social Services Child Welfare Supervisors Child Protective Services Supervisors Foster Care Supervisors Foster Care Home Finders CONNECTIONS Implementation Coordinators
<b>Contact Person(s):</b>	Section VI
<b>Attachments:</b>	<ul style="list-style-type: none"> <li>• <a href="#">Emergency Foster Home Application (OCFS-5300A)</a></li> <li>• <a href="#">Foster Parent Applicant Statement (OCFS-5300B)</a></li> <li>• <a href="#">Expedited Home Study Evaluation (OCFS-5300C)</a></li> <li>• <a href="#">Expedited Home Study Checklist for Caseworker (OCFS-5300D)</a></li> </ul>

### Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
19-OCFS-ADM-12 19-OCFS-ADM-07 18-OCFS-ADM-07 17-OCFS-ADM-05 01-OCFS-ADM-01		18 NYCRR Part 443		<i>CONNECTIONS Step-by-Step Guide: Training for FAD Caseworkers</i>  <i>The Modernization of the CONNECTIONS Foster and Adoptive Home Development (FAD) Stage Job Aid</i>	

## I. Purpose

The purpose of this Administrative Directive (ADM) is to release the standardized forms that must be used to complete the expedited home studies to approve emergency foster boarding homes (FBHs). It also reminds local departments of social services (LDSSs) and voluntary authorized agencies (VAs)<sup>1</sup> of the New York State Office of Children and Family Services (OCFS) regulations that allow LDSSs/VAs to approve kin<sup>2</sup> as emergency FBHs to provide care to a specific child(ren) who needs immediate placement in an FBH. Finally, this ADM informs LDSSs and VAs about amendments to OCFS regulations that expand the definition of "relative" for the purpose of approval of an FBH and expands regulatory non-safety, non-statutory waiver authority to include individuals who meet the requirements to become an approved FBH.

## II. Background

The federal Family First Prevention Services Act (FFPSA), which significantly amended Title IV-E of the Social Security Act, was enacted on February 9, 2018. A primary goal of FFPSA is to keep children safely at home with their families and, when that is not possible, to utilize the least restrictive placement appropriate for the needs of the child. FFPSA reforms federal financing to prioritize family-based foster care settings over congregate care settings by limiting Title IV-E reimbursement for placement in certain congregate care settings.

While placing a child(ren) into the least restrictive foster care placement setting has been a longstanding federal and state requirement, LDSSs must intensify efforts to maintain children in home-based settings whenever possible in order to meet FFPSA standards. To maximize the availability of family-based placements, LDSSs must include engagement and support of kinship caregivers as part of their recruitment and retention strategies. Kinship caregivers are valuable resources in child welfare for many reasons; they maintain family and cultural connections, preserve cultural identity, reduce trauma, and are more stable.<sup>3</sup> Additionally, the use of kinship caregivers preserves traditional FBH capacity for children who cannot be placed with kin, which is critical to meeting the requirements of FFPSA.

While becoming an emergency FBH was the path to kinship foster care for most kinship caregivers, OCFS regulations previously only allowed relatives within the third degree of the parent or stepparent of the child, who were approved as foster parents, access to regulatory non-safety, non-statutory waivers.<sup>4</sup> Relatives outside the third degree and nonrelatives (fictive kin) could only be certified as foster parents and, therefore, ineligible for any such waivers.

Furthering OCFS's commitment to enhance opportunities for children to reside with kin when they are removed from their homes, amendments to 18 NYCRR Part 443 were filed on an emergency basis and effective on January 18, 2020. Notice of proposed rulemaking

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<sup>1</sup> Throughout this ADM, the terms LDSS and/or VA refer to the agency that is certifying or approving the foster home.

<sup>2</sup> "Kinship" and "Kin" refer to both relatives and non-relatives with a connection to a child(ren) or child(ren)'s family.

<sup>3</sup> "Working with Kinship Caregivers," *Child Welfare Information Gateway* (2018), <https://www.childwelfare.gov/pubs/kinship/>.

<sup>4</sup> Such waivers were as authorized by 18 NYCRR 443.3(b)(16).

for the amendments was published in the *New York State Register* on February 12, 2020, and public comments were received until April 20, 2020. The regulations were adopted and made final on May 12, 2020.

The following amendments were made to 18 NYCRR 443.1 and 443.7:

- Added a definition of a relative to include
  - any adult related to the child's parent or stepparent through blood, marriage, or adoption to any degree of kinship; and
  - an adult with a positive relationship to the child or the child's family including, but not limited to, a child's godparent, neighbor or family friend, or who is an unrelated person where placement with such person allows half siblings to remain together in an approved foster home, and the parents or stepparents of one of the half siblings is a relative of such person.
- Amended the definition of a letter of approval or approval, approved home and approved emergency home to delete the limitation that an approved foster parent must be related within the second or third degree of the child's parent or stepparent.
- Repealed the definition and category of emergency certified foster home and the definition of a relative within the second or third degree.
- Amended the process for approving potential emergency foster homes to reflect the above-referenced definition changes relating to relatives.
- Amended the notice standards relating to the continuation of placement past the 90-day emergency approval, as authorized in 18 NYCRR 443.7(h), by requiring notification no later than 20 days prior to the expiration date of the continuation of placement.

Effective January 18, 2020, all relatives outside of the third degree of consanguinity and all fictive kin who are applying to be a foster parent(s) must pursue approval as an FBH rather than certification. Likewise, if kin are applying to be emergency foster parents, they will be applying to be an approved emergency FBH. There will no longer be a category of certified emergency FBH, because all persons who qualify (relatives to any degree and fictive kin) will fall under the definition of "relative" and will now fit under the approval category. Obtaining either approval as an emergency FBH or as a fully approved FBH will allow all categories of kin access to non-safety, non-statutory regulatory waivers in accordance with 18 NYCRR 443.3(b)(16), if necessary.

OCFS's policy<sup>5</sup> and practice also require that kin be notified of their options to care for children who have been removed from their homes. If kin decide to pursue becoming an approved emergency FBH, specific criteria must be considered by the LDSS and VA. These criteria are listed in 18 NYCRR 443.7 and are also discussed in this ADM.

Prior to the release of this ADM, OCFS issued 18-OCFS-ADM-07 and 19-OCFS-ADM-07, which include standardized tools for completing the certification or approval of a foster/adoptive home and a standardized template for the completion of the annual reauthorization of foster/adoptive homes. The requirements of those two policies remain the same and have not been changed due to the most recent regulatory changes. This ADM adds to the tools to be used by LDSSs and VAs for foster/adoptive home certification or approval and provides the forms required to complete an expedited home study for the approval of an emergency FBH.

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<sup>5</sup>18-OCFS-ADM-23.

### III. Program Implications

When children cannot remain safely with their parents, placement with kin is preferred over placement with nonrelatives. OCFS regulations require caseworkers to identify and locate relatives as well as persons with whom the child or child's family has a positive relationship, and who can safely care for the child(ren) while parents receive services to help them address the issues that brought the children to the attention of child welfare.<sup>6</sup>

Consistent with the regulatory changes discussed above, all kin interested in providing foster care as an approved emergency FBH or as a fully approved FBH will follow the approval process set forth in 18 NYCRR Part 443. Approving emergency FBHs allows LDSSs and VAs to immediately place a child who must be removed from their home with kin while providing the kin with the supports that a fully approved FBH receives. LDSSs/VAs can approve an emergency FBH by completing, evaluating, and approving an expedited home study. Each LDSS/VA may have a different internal business process for assigning the LDSS/VA worker completing the expedited home study on the prospective foster parent(s). However, in most situations, a child protective services (CPS) caseworker will identify kin, present kin with their options for caring for the child(ren),<sup>7</sup> and gather necessary information from kin interested in becoming a foster care resource. That same caseworker often initiates the protective removal of the child from their home while completing the expedited home study on the kin. Regardless of which worker in the LDSS or VA is responsible for completing the expedited home study on a prospective emergency FBH, the expedited home study is intended to allow timely placement of a child in a safe and suitable environment with kin. The expedited home study forms released with this ADM were created to record the information collected during the approval of an emergency FBH. The caseworker must assess all the information captured during the expedited home study to determine whether the prospective foster parent(s) can safely care for and meet the needs of the child(ren) to be placed in the home and to evaluate whether the prospective foster parent(s) meets requirements for approval as an emergency FBH. All FBHs that are approved as emergency FBHs, with limited exceptions related to the completion of clearances, must complete the full approval process within 90 days of the child's placement in the FBH.

Below is general information about each step in the approval of an emergency FBH. Each of the expedited home study forms are also discussed. **All LDSSs and VAs must follow the process and utilize the forms released with this ADM when approving emergency FBHs.**

A completed expedited home study consists of forms OCFS-5300A-OCFS-5300D. These forms must be completed and evaluated in order to approve an emergency FBH:

- [Emergency Foster Home Application \(OCFS-5300A\)](#)
- [Foster Parent Applicant Statement \(OCFS-5300B\)](#)
- [Expedited Home Study Evaluation \(OCFS-5300C\)](#)
- [Expedited Home Study Checklist for Caseworker \(OCFS-5300D\)](#)

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<sup>6</sup> 18 NYCRR 430.11(c)(4).

<sup>7</sup> 18-OCFS-ADM-23.

**Emergency Foster Home Application (OCFS- 5300A)**

The OCFS-5300A consists of sections I-IV, which are as follows:

I. Prospective Foster Parent(s)' Information

This section asks for demographic information of the prospective foster parent(s).

II. Other Household Members' Information

This section asks for demographic information of the other household members. List all biological/adopted children of the prospective foster parent(s). Do not list children in foster care in this section.

III. Children in Foster Care Placed in the Home Information

This section asks for the name(s), date(s) of birth, date(s) of placement and relationship to the prospective foster parent(s) of the child(ren) in foster care.

VI. Signatures

This section asks for signatures of the prospective foster parent(s) and caseworker.

V. Applicant's Sworn Statements

Section V includes sworn statements that each applicant must complete, attesting to whether they or any other person 18 years of age or older residing in the prospective foster home has been convicted of a crime in New York State or any other jurisdiction or state. If an applicant(s) is applying for approval as an emergency foster parent, the completion of sworn statements is required at the time of the expedited home study. The sworn statements do not need to be redone at the time of full approval.

**Foster Parent Applicant Statement (OCFS-5300B)**

OCFS-5300B addresses the signed and dated statement that the LDSS/VA is required by regulation to secure from the prospective emergency foster parent(s). It must include the prospective emergency foster parent's

- exact relationship to the child and the child's parent(s);
- agreement to provide foster care for the child(ren);
- assurance that the prospective emergency foster parent(s) understands that the child(ren) is in the legal custody of the LDSS, and that by accepting responsibility for providing foster care for the child, the prospective emergency foster parent(s) agrees to comply with foster care requirements, including but not limited to those involving the role and authority of the certifying or approving LDSS/VA and the LDSS with legal custody of the child to supervise the placement;
- agreement to not use corporal punishment on the child(ren) placed in the home;
- agreement to complete and submit to the LDSS/VA, within seven days of the child(ren)'s placement in the home, a Statewide Central Register (SCR) database check form and a Staff Exclusion List (SEL) form to the agency responsible for my/our certification or approval for each applicant and household member 18 years of age or older; and

- agreement for each applicant and household member 18 years of age or older to be fingerprinted for a criminal background check no later than two weeks following the child(ren)'s placement in the home.

### **Expedited Home Evaluation (OCFS-5300C)**

OCFS-5300C is the regulatorily required home study evaluation component of the expedited home study [18 NYCRR 443.7(b)(2) & (3)]. The home study evaluation is where the caseworker records information regarding the prospective emergency foster parent's home and family, focusing on the following factors:

- The family's relationship with the child and the child's parent(s) or stepparent(s)
- The care provided to other children in the home by the prospective foster parent(s)
- The prospective foster parent(s) knowledge of the circumstances and conditions that led to the need for the child's foster care placement
- The past role of the prospective foster parent(s) in helping and/or protecting the child from and/or preventing occurrences of abuse or maltreatment of the child
- The current ability of the prospective foster parent(s) to understand the need to protect the child placed in their home from abuse or maltreatment.

The caseworker and supervisor must evaluate all information collected during the expedited home study process to determine whether to approve the emergency FBH. If the decision is made to deny the approval, the caseworker must explain the reason for the denial to the prospective emergency foster parent(s) and document it on the OCFS-5300C.

### **Expedited Home Study Checklist for Caseworker (OCFS-5300D)**

OCFS-5300D is a checklist that is completed by the caseworker. It is not required to be completed in full prior to a child(ren) being placed in the home; however, all components included in the checklist must be completed and documented by the end of the 90-day emergency FBH approval time frame. The checklist is also the mechanism through which caseworkers document how they addressed the regulatory requirements to

- assess the home of the prospective foster parent(s) to determine that there is no apparent risk to the health and safety of the child,
- explain to prospective foster parent(s) the agency's role and authority to supervise the placement,
- obtain information necessary to contact character references, and
- review agency records to determine whether the prospective foster parent(s) have a prior history of abuse or maltreatment.

### **Frequently Asked Questions Regarding Approving Emergency FBHs**

#### **1. Under what circumstances can an LDSS/VA approve an emergency FBH?**

An FBH may be approved as an emergency FBH if

- a child(ren) is removed from his or her own home pursuant to section 1021, 1022, 1024, or 1027 of the Family Court Act (FCA); or
- a child(ren) is removed and placed in foster care pursuant to article 3, 7, 10, 10-B, or 10-C of the FCA section 384-a of the Social Services Law (SSL), or
- a child(ren) currently placed in a foster care setting needs to be placed in an FBH, and the LDSS documents within its case record a compelling reason why such home needs to be approved on an emergency basis; and

- a relative is identified by the child, child's parent(s) or stepparent(s), the court, a representative of the LDSS or other interested party as potentially appropriate to provide foster care to the child(ren), or such relative volunteers to provide foster care to the child.

## 2. How is an approved emergency FBH defined?

An approved emergency foster home is a home in which foster care is provided to a child placed with an authorized agency who is cared for 24 hours a day in a family home with a foster parent who is a relative. For purposes of 18 NYCRR Part 443, a “relative” is defined as an adult

- who is related to the parent(s) or stepparent(s) of a child through blood, marriage, or adoption to any degree of kinship; or
- with a positive relationship to the child or child’s family, including but not limited to a child’s godparent, neighbor, family friend; or
- an unrelated person where placement with such person allows half siblings to remain together in an approved foster home, and the parents or stepparents of one of the half siblings is a relative of such person, and
- which is duly approved by an authorized agency in accordance with 18 NYCRR 443.7 of this Part.

## 3. What is the difference between an approved emergency FBH and a designated emergency FBH?

Approved emergency FBHs are FBHs where the foster parent(s) must be relatives of the child(ren) being placed into foster care, while designated emergency FBHs<sup>8</sup> are fully certified FBHs exclusively designated to provide temporary care to children who enter foster care in a crisis situation that is expected to be resolved within 60 days.

## 4. What are the benefits of approving an emergency FBH?

Kinship caregivers are valuable resources in child welfare. When appropriate, safe, and in the child’s best interests, placements with kin are preferred for children who must be removed from their homes because they maintain the child’s family connections. Children in kinship placements are more likely to remain in their neighborhoods and maintain connection with their birth parents and siblings.<sup>9</sup> The reduced trauma associated with kin placement leads to better behavioral and mental health outcomes. Studies show that children in kinship care experience fewer behavioral problems and have better mental health than children in non-kinship care.<sup>10</sup>

Kinship placements also create more options for home-based care and preserve recruited foster homes for children who do not have kin resources. The availability of home-based care will be critical to preserving Title IV-E reimbursement for eligible children when the federal Family First Prevention Services Act takes effect in New York State on September 29, 2021.

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<sup>8</sup> 18 NYCRR 446.2.

<sup>9</sup> David M. Rubin, MD, MSCE et al., “The Impact of Kinship Care on Behavioral Well-Being for Children in Out-of-Home Care,” *Archives of Pediatric & Adolescent Medicine* 162 (6) (2008): 550-556. DOI: 10.1001/archpedi.162.6.550.

<sup>10</sup> <https://www.ncbi.nlm.nih.gov/pubmed/24488572>.

**5. Do criminal background checks need to be completed on the prospective emergency foster parent(s) and household members 18 years of age or older prior to the placement of child(ren) in the home?**

No. At the time of the expedited home study, the LDSS/VA must advise the prospective emergency foster parent(s) and household members 18 years of age or older of the requirement to have criminal background checks completed via fingerprinting. The LDSS or VA must provide the emergency foster parent(s) with the *Request for NYS Fingerprinting Services* (OCFS-4930ASFA) and *Notice Regarding Fingerprinting Requirements* (OCFS-2660) within one day of the child(ren)'s placement in the FBH. The fingerprinting must be completed within two weeks of the child(ren)'s placement in the FBH.

**6. How does an LDSS fulfill the requirement to review agency records to determine whether the prospective emergency foster parent(s) have a prior history of abuse or maltreatment prior to the placement of the child(ren) in the home and completion of the LDSS-3370?**

The review of agency records consists of a person search of CONNECTIONS to determine whether the prospective emergency foster parent(s) have a prior history of abuse or neglect. LDSSs are authorized to conduct inquiries on these individuals if and when the prospective emergency foster parent(s) sign the release statement located on OCFS-5300B. Beyond signing this statement, no other releases are necessary for this purpose. This search of agency records will provide the caseworker with information to assist in assessing the appropriateness of approving the prospective emergency FBH and placing the child(ren) immediately in the home. This review of agency records does not replace the requirement for approved emergency foster parent(s) and household members 18 years of age or older to complete the *Statewide Central Register Database Check* form (LDSS-3370) within seven days.<sup>11</sup>

**7. How long does an LDSS/VA have after approving an emergency FBH to open the home in CONNECTIONS in the Foster and Adoptive Home Development (FAD) module?**

The LDSS/VA must open the emergency FBH in FAD as soon as possible, but no later than two days from the date of placement of the child(ren) in the FBH.

**8. What is an “exception” as it relates to a certified or approved FBH? What is the process to request an exception?**

An “exception” is a prescribed regulatory alternative related to a specific requirement, most often placement specific, such as placing sibling groups together in an approved emergency FBH or a fully certified or approved FBH. Exceptions are specifically detailed in regulation when certain circumstances exist. The exceptions are as follows:

- *Are there separate bedrooms for children of the opposite gender 7 years of age or older?*
  - Exception may be allowed if the children are siblings or half siblings sharing the same bedroom and the alternative sleeping arrangement is consistent with the health, safety, and welfare of each of the siblings or half siblings

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<sup>11</sup> SSL 424-a.

and is necessary to keep the siblings or half siblings placed together in the same foster home.<sup>12</sup>

- *Are more than three persons occupying any bedroom where children in foster care will sleep?*
  - Exception may be allowed if the children are siblings or half siblings sharing the same bedroom and the alternative sleeping arrangement is consistent with the health, safety, and welfare of each of the siblings or half siblings and is necessary to keep the siblings or half siblings placed together in the same foster home.<sup>13</sup>
- *Are there six or more children including foster children of any age and non-foster children under the age of 13 residing in the prospective foster home?*
  - Exception may be allowed for up to two additional children if such children are siblings, or are siblings of a child living in the home, are children freed for adoption and placed for adoption with the person(s) who have been certified, or are minor parents who are foster children and the minor parents' children.<sup>14</sup> Another exception involves a foster child(ren) who is returning to foster care following an interruption in care or returning to a foster family home following placement in a foster care facility where the LDSS or VA determines that it is in the best interests of the child(ren) to be placed in the foster home in which such child(ren) was last placed.<sup>15</sup>
  - Any changes to capacity of the FBH requires an interim home study to be completed and an update to the FBH licensing window in FAD.
- *Does the prospective foster home care for more than two infants under 2 years of age, including the prospective foster parent's own children?*
  - Exception may be allowed in cases where the foster parents have demonstrated the capacity to do so and a sibling group would otherwise have to be separated.<sup>16</sup>
- *Does the prospective emergency approved foster parent(s) rent rooms to lodgers or boarders, or receive and care for maternity cases, except as part of the foster care program, or receive or care for convalescent cases, or conduct any business on the premises that might adversely affect the welfare of children?*
  - Exception may be allowed if permitted by the LDSS or VA that certified or approved the home.<sup>17</sup>

Requests for an exception may be necessary during the approval of emergency FBHs or during the authorization period of a fully approved FBH. The process to request an exception varies slightly depending on the time frame in which the request is made.

See Required Actions, Section IV, for the step-by-step process for requesting an exception.

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<sup>12</sup> 18 NYCRR 443.3(a)(4).

<sup>13</sup> 18 NYCRR 443.3(a)(5).

<sup>14</sup> 18 NYCRR 443.1(j), SSL 378.4, SSL 378. 3.

<sup>15</sup> SSL 398(6)(n), 18 NYCRR 443.6.

<sup>16</sup> 18 NYCRR 443.3(b)(4).

<sup>17</sup> 18 NYCRR 443.3(a)(14).

**9. What is a “waiver” as it relates to an approved FBH? What is the process to request a waiver?**

A waiver is a request for an exemption to any non-safety, non-statutory, regulatory requirement for approving a foster home.<sup>18</sup> A waiver is only available to approved FBHs. A waiver must be requested in writing to the LDSS with legal custody of the child(ren) to be placed in the home, and it must be authorized by an LDSS supervisor who does not have direct supervisory responsibility over the case management of the child(ren) placed in the home. The waiver requested must be

- necessary to board a foster child;
- in the best interests of the child; and
- consistent with the health, safety, and welfare of the child.

Requests for a waiver may be necessary during the approval of emergency FBHs or during the authorization period of a fully approved FBH. The process to request a waiver varies slightly depending on the time frame in which the request is made. See Required Actions, Section IV, for the step-by-step process for requesting a waiver.

**10. Are approved emergency FBHs required to complete all pre-service training requirements within the 90-day emergency period?**

It may be possible that a training and preparation plan for an approved emergency FBH could involve the delivery of one or more OCFS-approved training/preparation program sessions during the 90-day emergency period, with the remainder of the program delivered over the first three months after full approval. Any amendments to an LDSS or VA foster parent training and preparation plan must be submitted and approved by the appropriate OCFS regional office.<sup>19</sup>

**11. Is Title IV-E federal reimbursement available for approved emergency FBHs?**

Title IV-E federal reimbursement is not available for approved emergency FBHs. However, the FBH may be eligible for Emergency Aid to Families (EAF)<sup>20</sup> while in emergency status. When the FBH is fully approved, the FBH may be eligible for Title IV-E reimbursement. The Title IV-E reimbursement is not retroactive to date of placement; it starts the first day of the month the home became fully approved. For example, if an FBH is fully approved on 1/30/20, it is eligible for Title IV-E reimbursement on 1/1/20.

**12. How long can a home be approved as an emergency FBH?**

A home can be approved as an emergency FBH for 90 days from the date of the placement of the child(ren) in the home [18 NYCRR 443.7(c)]. The emergency FBH may continue to provide foster care beyond the 90<sup>th</sup> day if the foster parent(s) has otherwise satisfied all the requirements for full approval except for receipt of the results of the SCR, SEL, and/or criminal background checks [18 NYCRR 443.7(h)].

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<sup>18</sup> 18 NYCRR 443.3(b)(16).

<sup>19</sup> 01-OCFS-ADM-01.

<sup>20</sup> *Eligibility Manual for Child Welfare Programs.*

### **13. How does an approved emergency FBH become a fully approved FBH?**

Within 90 days of the child's placement in the home, the approved emergency foster parent(s) must meet the requirements for approval set forth in 18 NYCRR Part 443, 18-OCFS-ADM-07, and 19-OCFS-ADM-07. However, the approved emergency foster parent(s) does not need to duplicate the parts of the full approval process that were already completed during the expedited home study. This includes,

- signing sworn statement(s),
- provision of references, and
- reviewing and signing the *Foster Parent Agreement* (OCFS-5183J).

### **14. Can a fully approved FBH serve children who are not their kin?**

If a fully approved FBH would like to serve children who are not kin and the foster parent does not otherwise satisfy the definition of a relative to such children, the LDSS or VA that approved the FBH must assess whether the approved FBH is able to care for such child(ren). The FBH would no longer be eligible for any waivers authorized for approved foster homes by 18 NYCRR 443.3(b)(16) and must meet all regulatory requirements. The FBH may then be converted to a certified FBH in FAD.

### **15. What must an LDSS/VA provide to an emergency foster parent(s) if the emergency foster parent(s) has not met time-sensitive requirements prior to the expiration of the 90-day emergency period? For example, the emergency foster parent(s) and/or household members 18 years of age or older have not completed the *Statewide Central Register Database Check* form (LDSS-3370) within seven days of the child(ren)'s placement in the FBH?**

The LDSS or VA must provide notice to the emergency foster parent(s) within the first 90 days of placement if such requirements of approval of an FBH have not been or cannot be met. This notice must be provided no later than 20 days prior to the expiration date of the continuation of placement and must identify the problem(s) that constitute a barrier to full approval as an FBH.

### **16. What must an LDSS/VA do if the emergency foster parent(s) fails to meet all requirements for full approval as an FBH within 90 days from the date of placement?**

If the emergency foster parent(s) fails to meet all requirements for approval pursuant to 18 NYCRR Part 443, 18-OCFS-ADM-07, and 19-OCFS-ADM-07 within 90 days from the date of placement, the LDSS/VA must

- (1) revoke an emergency foster parent(s) approval pursuant to 18 NYCRR 443.12 if all requirements for approval, other than those requirements listed in question #12 above, are not met within the first 90 days from the date of placement; and
- (2) upon revocation of an approval, the emergency FBH must be closed in FAD, and if the child(ren) is to remain in foster care, remove the child(ren) from the home of the emergency foster parent(s), place the child(ren) in a suitable certified or approved FBH, and inform the emergency foster parent(s) of the right to request a hearing in accordance with the provisions of section 400 of the Social Services Law (SSL).<sup>21</sup> In addition, the emergency FBH must be closed in FAD. If the emergency foster

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<sup>21</sup> 18 NYCRR 443.5.

parent(s) asks for a fair hearing and the decision to close was overturned after the fair hearing process, the FBH could be reopened.

#### IV. Required Actions

- Effective on the date of this ADM, all LDSSs/VAs must use the forms released in this ADM when approving an emergency FBH.
- All completed forms must be maintained in the FBH's file and/or uploaded in FAD.
- All kinship FBHs *in process of becoming fully certified* FBHs prior to the release of this ADM, and the regulatory change of who can be approved, must be changed to approved relative FBHs in the FAD licensing window in CONNECTIONS.
- There is no expectation that any change be made to the FBH's licensing within the FAD licensing window of a kinship foster home *that was fully certified* prior to this ADM unless the use of a waiver as defined in question #9 is necessary and appropriate to maintain the placement.

#### **Exception Request Process:**

The process to request an exception varies slightly depending on the time frame in which the request is made.

#### Prior to opening in FAD:

If an LDSS or VA determines that an approved emergency FBH requires one or more of the exceptions listed above, the caseworker must document the request for the exception and list the time frame for resolution of the issue for which an exception is being requested, if resolution is deemed appropriate, on the *Home Study Checklist for Caseworkers* (OCFS-5300D). An LDSS or VA supervisor must review and sign the OCFS-5300D. This is a preliminary approval prior to the opening in FAD. Signed approvals must be maintained in the FBH's case file until the FBH is opened in FAD.

#### Approved emergency FBH opened in FAD:

The signed OCFS-5300D must be uploaded into FAD when the FAD is opened. In addition, if the exception is still required, when the approved emergency FBH is opened in FAD an *Exception/Waiver Request Form* must be completed and submitted for LDSS or VA supervisory approval.

#### Fully approved FBH:

If at any time during the authorization period of a fully approved FBH an exception is requested, the LDSS or VA that approved the FBH must complete an *Exception/Waiver Request Form* in FAD and submit it for LDSS or VA supervisory approval.

#### Annual reauthorization:

Each time the use of an exception is approved for any certified or approved FBH, the home finder must document at each subsequent annual reauthorization whether the exception is still necessary on the [Annual Reauthorization Assessment and Determination](#) (OCFS-5183L).

**Waiver Request Process:**

The process to request a waiver varies slightly depending on the time frame in which the request is made.

**Approved emergency FBH prior to opening in FAD:**

If an LDSS or VA determines that an approved emergency FBH requires one or more waivers, the caseworker must document the request for the waiver and list the time frame for resolution of the issue for which a waiver is being requested, if resolution is deemed appropriate, on the *Home Study Checklist for Caseworkers* (OCFS-5300D). A supervisor from the LDSS with legal custody of the child(ren) who does not have direct supervisory responsibility over the case management of the child(ren) to be placed in the home must review and sign the OCFS-5300D. This is a preliminary approval prior to the opening in FAD. Signed approvals must be maintained in the FBH's case file until the FBH is opened in FAD.

**Approved emergency FBH is opened in FAD:**

The signed OCFS-5300D must be uploaded into FAD when the FAD is opened. In addition, if the waiver is still required, when the approved emergency FBH is opened in FAD, an *Exception/Waiver Request Form* must be completed and submitted to the LDSS with custody of the child(ren) placed in the home for supervisory approval.

- If the FBH is being approved by the LDSS, the LDSS worker must submit the *Exception/Waiver Request Form* for supervisory approval through FAD.
- If the FBH is being approved by a VA, the VA worker must complete the *Exception/Waiver Request Form* in FAD, print it out, and submit it to the LDSS with custody of the child(ren) being placed for signature. If approval is received, the VA worker must then submit it for supervisory approval in FAD. Signed approvals must be maintained in the FBH's case file and uploaded in FAD.

**Fully approved FBH:**

If a waiver is requested at any time during the authorization period of a fully approved FBH, the LDSS or VA that approved the home must complete an *Exception/Waiver Request Form* in FAD and follow the process outlined above to receive approval.

**Annual Reauthorization:**

Each time the use of a waiver is approved for an approved FBH, the home finder must document at each subsequent annual reauthorization whether the waiver is still necessary in the *Annual Reauthorization Assessment and Determination* (OCFS-5183L).

**V. Systems Implications**

All approved emergency FBHs must be opened in the FAD section of CONNECTIONS within two days of the child(ren)'s placement in the FBH.

**VI. Contacts**

Any questions concerning this release should be directed to the appropriate regional office, Division of Child Welfare and Community Services:

Buffalo Regional Office - Amanda Darling (716) 847-3145  
[Amanda.Darling@ocfs.ny.gov](mailto:Amanda.Darling@ocfs.ny.gov)

Rochester Regional Office - Christopher Bruno (585) 238-8201

[Christopher.Bruno@ocfs.ny.gov](mailto:Christopher.Bruno@ocfs.ny.gov)

Syracuse Regional Office - Sara Simon (315) 423-1200

[Sara.Simon@ocfs.ny.gov](mailto:Sara.Simon@ocfs.ny.gov)

Albany Regional Office - John Lockwood (518) 486-7078

[John.Lockwood@ocfs.ny.gov](mailto:John.Lockwood@ocfs.ny.gov)

Westchester Regional Office - Sheletha Chang (845) 708-2498

[Sheletha.Chang@ocfs.ny.gov](mailto:Sheletha.Chang@ocfs.ny.gov)

New York City Regional Office - Ronni Fuchs (212) 383-4873

[Ronni.Fuchs@ocfs.ny.gov](mailto:Ronni.Fuchs@ocfs.ny.gov)

Native American Services - Heather LaForme (716) 847-3123

[Heather.LaForme@ocfs.ny.gov](mailto:Heather.LaForme@ocfs.ny.gov)

## **VII. Effective Date**

This policy directive is effective immediately.

***/s/ Thomas R. Brooks***

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**Issued By:**

Name: Thomas R. Brooks

Title: Deputy Commissioner

Division/Office: Strategic Planning and Policy Development

***/s/ Lisa Ghartey Ogundimu***

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**Issued By:**

Name: Lisa Ghartey Ogundimu

Title: Deputy Commissioner

Division/Office: Child Welfare and Community Services