

Part 444 is added to Title 18 to read as follows:

Part 444

Approval and Supervision of Host Family Homes

§ 444.1 Definitions

- (a) *OCFS* means the New York State Office of Children and Family Services.
- (b) *Child receiving host family care* means a person under the age of 18 who is not in the care and custody or custody and guardianship of the commissioner of a local department of social services or OCFS, is not legally freed for adoption and is placed in the care of a host family by a host family home agency.
- (c) *Host family home agency* means an authorized agency, as defined in paragraph (a) subdivision 10 of section 371 of the Social Services Law, with the corporate authority to arrange for the placing out of children for the purpose of providing temporary care outside of the children's regular homes, with the approval and consent of such children's parent or legal guardian, and in no event shall the placing out be for the purposes of adoption. Such corporate authority must be approved by OCFS before agency may file with the New York State Department of State.
- (d) *Host family care* means the temporary placement of a child in an approved host family home by a host family home agency following the execution of an agreement by the child's parent with the host family home agency authorizing such placement, in accordance with the provisions of this Part. Such care shall be provided by the host family home at no cost to the host family home agency or to a local department of social services.
- (e) *Host family home* means a residence owned, leased, or otherwise under the control of a single person over the age of 21 or family who is approved volunteer by a host family home agency. Such home may not care for more than six children, including all children under the age of 13 whether or not they have been placed by the host family home agency. Except that up to two additional children may be cared for by the host family home if such children are siblings or the children are siblings of a child living in the host family home not receiving host family care. A host family home may be approved for a period of up to two years with subsequent reauthorizations for up to two additional years.
- (f) *Host family services program* mean those supportive services provided to children and their families in accordance with the provisions of this Part for the purpose of: supporting a family when a parent is unable to care for his or her child(ren) and has agreed through written agreement to allow a host family to care for his or her child(ren) averting the need for more formal child welfare intervention, and any other service OCFS deems acceptable.

§ 444.2 Conditions for approval of the host family home agency

- (a) A host family home agency may not operate a host family services program until it receives the written approval of OCFS.
- (b) An authorized agency desiring to operate a host family home program must apply to OCFS for authorization in a manner as required by OCFS, including, but not limited to, the provisions of Part 482 of this Title.
- (c) A host family home agency may not place a child receiving host family care outside of New York State without first receiving written permission from the Interstate Compact for the Placement of Children office of both New York and the receiving state.

§ 444.3 Duties and responsibilities of the host family home agency

- (a) The host family home agency must seek to recruit volunteer individuals with the ability and motivation to serve children in need of a substitute caregiver.
- (b) The host family home agency must:
 - (1) inform persons who express an interest in volunteering to be a host family home that each applicant and household member over the age of 18 must obtain his or her criminal history from the New York State Division of Criminal Justice Services and provide such history to the host family home agency;
 - (2) inform persons who express an interest in volunteering to be a host family home that the host family home agency must inquire of OCFS whether any person who applies for approval to be a host family home is the subject of an indicated report of child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and Maltreatment and inquire of the Justice Center for the Protection of People with Special Needs whether the applicant is listed on the register of substantiated Category one cases of abuse or neglect maintained by the Justice Center for the Protection of People with Special Needs;
 - (3) require applicants to complete the forms that are necessary for the host family home agency to inquire of OCFS whether the applicant is the subject of an indicated child abuse or maltreatment report on file with the Statewide Central Register of Child Abuse and Maltreatment and to inquire of the Justice Center for the Protection of People with Special Needs whether the applicant is listed on the register of substantiated Category one cases of abuse or neglect maintained by the Justice Center for the Protection of People with Special Needs;
 - (4) inquire of OCFS whether the applicant is the subject of an indicated report of child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and Maltreatment and inquire of the Justice Center for the Protection of People with Special Needs whether the applicant is listed on the register of substantiated Category one cases of abuse or neglect maintained by the Justice Center for the Protection of People with Special Needs;
 - (5) determine, on the basis of the information it has available and in accordance with guidelines developed by OCFS, whether to approve the application if an

applicant is the subject of an indicated report of child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and Maltreatment and/or is listed on the register of substantiated category one cases of abuse or neglect maintained by the Justice Center for the Protection of People with Special Needs; If the host family home agency determines that it will approve the applicant to care for a child, the host family home agency must maintain a written record, as part of the application and home study file of such applicant, of the reason(s) why the applicant was determined to be appropriate and acceptable to care for a child;

- (6) permit a joint application to be submitted by married individuals living in the same household;
- (7) utilize the application form submitted by the applicant for approval as a host family home to elicit information including, but not limited to the following:
 - (i) Age
 - (ii) Health
 - (iii) Physical functioning
 - (iv) Income
 - (v) Marital status
 - (vi) Employment of the applicants
 - (vii) Information regarding the physical facilities of the prospective home
 - (viii) Names of all other household members or anyone who will be sharing living accommodations with the child. This includes the names of all persons 18 years of age or older living in the home whether living their full-time or intermittently.
- (8) determine that the applicant for approval as a host family home has sufficient income or other financial resources to care for a child in the host family home. The host home family agency may require the production of documentation to support financial ability. The placement of a child by a host family home agency should not financially strain the family and create undue stress; and
- (9) require that the applicant for approval as a host family home submit all of the following information:
 - (i) Names, addresses and telephone numbers of at least three personal references, other than relatives, who can attest to the applicant's character, habits, reputation and personal qualifications and which must be verified in accordance with this section

- (ii) A sworn statement by the applicant indicating whether, to the best of the applicant's knowledge, the applicant or any other person over the age of 18 currently residing in the home has ever been convicted of a crime in New York State or any other jurisdiction. If an applicant discloses in the sworn statement that the applicant or any other person over the age of 18 currently residing in the home has been convicted of a crime, the host family home agency must determine whether to approve such applicant. If the host family home agency determines that it will approve the applicant to care for a child, the host family home agency must maintain a written record, as part of the application and home study file of such applicant, of the reason(s) why the applicant was determined to be appropriate and acceptable to care for a child.
 - (iii) A copy of the applicant's and adult household member's criminal history information.
 - (iv) A medical report form filed either prior to or after acceptance for a home study. The completion of the home study required by this Part must be conditioned upon the submission of an acceptable medical report form. The medical report form must cover a physical examination of the applicant(s) conducted not more than one year preceding the date that the application is submitted to the host family home agency, and must include at a minimum, the following:
 - a. A written statement from a physician, physician assistant, nurse practitioner or other licensed and qualified health care practitioner as appropriate, regarding the general health of the residents of the host family home, the absence of communicable disease, infection or illness or any physical conditions which might affect the proper care of a child
 - b. The result of a tuberculosis screening and additional related tests as deemed necessary within the last 12 months and an additional report of chest X-rays where a physician, physician assistant, nurse practitioner or other licensed and qualified health care practitioner as appropriate, determines that such X-rays are necessary to rule out the presence of current diseases.
- (10) establish a procedure to review and evaluate the backgrounds of and information supplied by all applicants and household members 18 years of age or older so to determine their appropriateness for provision of host family home care and to so inform the applicant of the decision in writing.

§ 444.4 Home study

- (a) Prior to the placing of a child with a host family home, a home study must be completed and the home must be approved as a host family home.
- (b) A home study and evaluation of the members of household must determine compliance with all of the following criteria for approval:

- (1) *Age.* Each applicant must be over the age of 21.
- (2) *Health.* Each member of the applicant's household must be in good physical and mental health and free from communicable diseases. However, physical handicaps or illness of applicants or members of their household must be a consideration only as they affect the ability to provide adequate care to a child receiving host family care or may affect an individual child's adjustment to the family. Applications must be evaluated on an individual basis with assistance of a medical consultant when appropriate. A written report from a physician, physician assistant, nurse practitioner, or other licensed and qualified health care practitioner as appropriate, on the health of a family, including a complete physical examination of the applicant, must be filed with the host family home agency initially and biennially thereafter. Additional medical reports must be furnished upon the request of either the host family home agency worker. Such reports must conform to the standards set forth in this Part.
- (3) *Employment.* Employment of an approved host family home outside the home must be permitted when there are suitable plans for the care and supervision of the child at all times, including after school and during the summer. Such plans must be made part of the host family home application record and must be received prior to approval by the host family home agency. Such plans must be updated annually and immediately upon substantial change in employment circumstances.
- (4) *Marital status.* The marital status of an applicant may be a factor in determining whether or not an approval will be granted only as it affects the ability to provide adequate care to a child. Changes in marital status of the applicant or the household members of the host family home must be reported to the host family home agency, and existing approvals may be revoked and new approval issued consistent with the best interests of the child.
- (5) *Character.* As set forth above, each applicant for approval must provide the host family home agency with the names of three persons who may be contacted for references. The host family home agency must seek signed statements from these persons attesting to the applicant's moral character, mature judgment, ability to manage financial resources, and capacity for developing a meaningful relationship with children, or utilize in-person interviews attesting to the same.
- (6) *Ability and motivation.* The host family home agency must explore each applicant's understanding of the role of a host family home and the applicant's ability, motivation, and psychological readiness to be a host family home in accordance with guidelines established by OCFS. The host family home agency also must explore the understanding of the other members of the household about being a host family home and their concept of the role within the family of the child receiving host family care.

- (c) The host family home agency must orient applicants who have been accepted for a home study to:
- (1) the social, family, and personal challenges that lead to the need for the placement of a child in a host family home;
 - (2) the problems and reactions of children upon separation, and the function and responsibility of the host family home in relation to the child, the child's parents, and host family home agency staff;
 - (3) the nature of the relationship of host family home agency staff to the host family home and children, including definitions of the function and responsibility of host family home agency staff assigned to the children receiving host family home care and their families; and
 - (4) the rights and responsibilities of host family home volunteers, as set forth in this Part.
- (d) When the host family home agency decides to discontinue a home study or to deny approval upon completion of the home study, the host family home agency must advise the applicant in writing of the reasons for the host family home agency's decision, and must offer an interview to discuss the decision.
- (e) A plan to discontinue a home study or to deny approval for a caregiver must be reviewed and approved by one or more supervisory level personnel of the host family home agency unless the home study was discontinued at the request of the applicant.
- (f) An application for approval that has been pending for six months due to failure of the applicant to provide information requested or to cooperate with the approval process will be considered expired. This expiration will require a new application for those prospective caregivers who still seek approval.
- (g) The host family home agency must develop a record for each applicant and each approved host family home that must include, but not necessarily be limited to:
- (1) the application;
 - (2) medical report(s)
 - (3) summary of the home study;
 - (4) interviews with applicants;
 - (5) personal references;
 - (6) placement/action record listing the names of children cared for in the home with the dates of the children's entry into the home;
 - (7) summary of each evaluation of the host family home;
 - (8) physical description of the home, including allocation of space;

- (9) summary of host family home agency conference that clarifies the basis for each decision that affects the applicant's status with the host family home agency;
- (10) copies of correspondence with the applicant and the host family home;
- (11) reports from OCFS that notify the host family home agency whether the applicant for approval is the subject of an indicated report of child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and Maltreatment, and information from the Justice Center for the Protection of People with Special Needs whether the applicant is listed on the register of substantiated Category one cases of abuse or neglect; and
- (12) the response from the New York State Division of Criminal Justice Services regarding the criminal history of the applicant and any adult household member over the age of 18 residing in the home of the applicant.

§444.5 Approval of host family homes

- (a) Host family homes must meet the following health and safety standards and physical plant requirements:
 - (1) The physical facilities of the host family home must be in good condition and present no hazard to the health and safety of children.
 - (2) The host family home must be in substantial compliance with all applicable state and local laws, ordinances, rules, and regulations.
 - (3) The physical space, construction and maintenance of the host family home and premises must be in good repair and kept in a sufficiently clean and sanitary condition so that the physical well-being as well as a reasonable degree of physical comfort is assured to the members of the host family home.
 - (4) Separate bedrooms are required for children of the opposite sex over seven years of age, unless 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 together in the same host family home.
 - (5) Not more than three persons may occupy any bedroom where children placed in the host family home sleep, unless the children are siblings or half-siblings and the occupancy 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 host family home.
 - (6) No bed may be located in any unfinished attic or basement.
 - (7) No child above the age of three may sleep in the same room with an adult of the opposite sex. Children must not sleep together in the same bed with an adult.

- (8) Each child must have sleeping space of sufficient size for the safety, comfort, and privacy of the child. Each child must have a separate bed or crib of sufficient size and cleanliness for the comfort and well-being of the child with waterproof covering, if needed, and suitable bedding adequate to the season. Bunk beds may be used.
- (9) There must be an adequate and safe supply of water for drinking and household use. Water from wells, springs, or other private sources must be protected against contamination. There must be provision for hot water for washing and bathing.
- (10) The dwelling must have window barriers, including window screens, guards, and/or stoppers above the first floor of the host family home.
- (11) Heating apparatus must be safe and adequate to provide for the reasonable comfort of children in the host family home.
- (12) Adequate bathing, toilet, and lavatory facilities must be provided and kept in sanitary condition.
- (13) The host family home must be free from fire hazards and in compliance with relevant fire safety codes, but in no instance shall the home be equipped with less than one smoke detector and one carbon monoxide detector.
- (14) No approved host family home may rent rooms to lodgers or boarders, or receive and care for maternity cases, or receive or care for convalescent cases, or conduct any business on the premises that might adversely affect the welfare of children, unless permitted by the host family home agency that approved the host family home.
- (15) All firearms, rifles, and shotguns, as defined in section 265.00 of the Penal Law, must be securely stored and must be maintained in compliance with applicable state and local standards regarding the licensing, storage, and maintenance of such weapons.
- (16) Exceptions to the provisions of this part, other than statutory requirements, may be approved by the host family home agency as part of the volunteer host family home approval process when the host family home agency determines that such exception is necessary to approve the volunteer host family home; is in the best interests of the child, is consistent with the health, safety, and welfare of the child, and the parents have provided written consent to the exception. Any exception approved by the host family home agency and the parent's written consent to such exception(s) must be documented in the child's case plan.

§444.6 Duties and responsibilities of the host family home

- (a) Approved host family home providers must execute an agreement with the host family home agency that approved the host family home stipulating that the host family home will:

- (1) enable children placed in the host family home to mingle freely and on equal footing with other children in the household and in the community, to be accepted as members of the household and share in its pleasures and responsibilities;
- (2) arrange for children of school age to attend school regularly, as required by the Education Law;
- (3) never leave children under the age of 10 years alone without competent adult supervision, nor children above that age except as might reasonably be done by a prudent parent in the case of his or her own children;
- (4) except as permitted by the appropriate host family home agency, never use a host family home to care for more than two infants under two years of age, including the host family home provider's own children, except in those cases where the host family home provider has demonstrated the capacity to do so and a sibling or half-sibling group would otherwise have to be separated;
- (5) provide children with sufficient nutritious, wholesome, and properly prepared food, served at regular hours. Children placed in the host family home must be permitted to eat meals at the table at the same manner as other family members with due consideration to their age and special needs;
- (6) keep the clothing of children placed in the host family home in proper condition of repair and cleanliness;
- (7) provide for each child placed in the host family home with sufficient individual toilet articles and towels, suitable for the child's age and gender, and individual drawer and closet space;
- (8) provide a suitable, well-lighted place for children of school age for home study;
- (9) recognize and respect the religious wishes of the parents of the children placed in the host family home, and endeavor to protect and preserve their religious faith;
- (10) endeavor to cooperate with the host family home agency and inform such agency of any incident or event that affects or may affect the child's adjustment, health, safety, or well-being;
- (11) provide a family atmosphere of acceptance, kindness and understanding, and endeavor to give each child the support, attention, and recognition that facilitates adjustment to the home and that promotes the child's normal development;
- (12) permit an authorized representative of the host family home agency that placed a child in such host family home to investigate in good faith a formal complaint regarding care of such child; and
- (13) inform the host family home agency of any changes in marital status, family composition, or number of persons residing in the home and any changes in the physical facilities comprising the host family home.

- (14) immediately inform the host family home agency of any instances of suspected child abuse or maltreatment of any child placed in the host family home.

§444.7 Placement information

- (a) Before a child is placed in a host family home, the host family home agency must provide the host family home provider with appropriate knowledge and skills to provide for the needs of the child. Such preparation must be continued, as needed, after the placement of the child.
- (b) Host family home agencies must provide basic information to host family home providers about each child who is to be placed in the home. Where a child is placed on an emergency basis, such information must be provided within 10 days of placement. Information shall include, but need not be limited to, the following topics:
 - (1) The estimated length of time a child may need to be in placement and the assumption and knowledge on which the estimate is based
 - (2) The health of the child, including the procedure to be followed in obtaining consent for emergency medical treatment, and the child's medical history
 - (3) Handicaps or behavior problems
 - (4) School and educational experiences
 - (5) The relationship of the child and the child's parents
 - (6) Requirements and plans for visitation of and by the child's family, including probable location of such visits;
 - (7) Placement and discharge goals.

§ 444.8 Supervision of host family homes

- (a) Supervision of children placed by the host family home agency in a host family home must be maintained through the provision of meeting and casework contacts as set forth in this section.
- (b) The host family home agency must conduct casework contacts with the child and the host family home as follows:
 - (1) There must be an initial contact with a child(ren) in the host family home within 48 hours of the child(ren) entering the host family home. The initial contact within 48 hours must take place in the host family home. The focus of the initial contact with the child must include the safety of the child and determining the child's reaction to the separation from the child's parent(s) and the child's adjustment to the placement.
 - (2) Thereafter, the host family home agency must conduct casework contacts with the child and host family home at least every 30 days, and more frequently as necessary, as long as the child remains in the host family home under the

agreement between the host family home agency and the child's parent or parents. At least two of the monthly contacts every 90 days must be at the child's host family home. The children should be spoken to by the host family home agency separate and apart from the host family home provider.

- (3) The host family home agency must arrange for conferences with the host family home regarding acute problems, emergencies, or crisis situations whenever necessary.

§ 444.9 Host Family Home Placement Agreement

- (a) A child may not be placed by the host family home agency in an approved host family home unless and until the parent or parents of the child have executed a host family home placement agreement consistent with the provisions of this section.
- (b) The host family home agreement must be read to the child's parent or parents by the host family home agency, and the host family home agency must answer any questions raised by the child's parent or parents regarding the host family home placement agreement.
- (c) The child's parent or parents have the right to consult with an attorney, other than an attorney employed by or otherwise affiliated with the host family home agency, before execution of the host family home agreement.
- (d) The child's parent or parents and the volunteer must be provided with a copy of the executed host family home agreement.
- (e) The host family home agreement must address the following terms and conditions:
 - (1) Duration of the placement which shall not exceed 12 months, granted however, that multiple 12-month placements may be allowed should Host Family Home Agency and the parent of the child receiving host family home care both agree to such
 - (2) Visitation and contact rights of the child and the child's parent(s) and other relative(s) while the child is in the host family home placement
 - (3) Consents for medical care
 - (4) Financial obligations of the child's parent or parents for the support of the child
 - (5) Education of the child
 - (6) Conditions for amendment or termination of the host family home placement agreement
 - (7) Duties and obligations of the child's parent or parents and those of the host family home agency

(f) The child's parent or parents of the child receiving host family home care must execute an updated host family home placement agreement consistent with the provisions of this section when the previous placement agreement has lapsed.

§444.10 Abuse and maltreatment of children

- (a) Any abuse or neglect of children in a host family home is absolutely prohibited.
- (b) Whenever staff of a host family home agency have reasonable cause to suspect that a child in a host family home is an abused or maltreated child by either the parent or the volunteer, such staff must immediately make a report to the Statewide Central Register of Child Abuse and Maltreatment.
- (c) Any persons 18 years of age or older residing in a home with a child receiving host family home care who has responsibility for the child's care can be the subject of a report to the Statewide Central Register of Child Abuse or Maltreatment if the conduct of such person causes or contributes to the abuse or maltreatment of a child.

§ 444.11 Discipline

- (a) Deprivation of meals, snacks, mail, or visits by the child's family, as methods of discipline are prohibited.
- (b) Confinement of a child in a room specifically to control acute physical behavior of that child is prohibited.
- (c) Corporal punishment is prohibited.
- (d) Solitary confinement is prohibited.
- (e) Discipline shall be prescribed, administered, and supervised only by adults. Such responsibilities shall never be delegated to children.

§444.12 Children's privacy rights

Children placed in a host family home must be afforded the following privacy rights as agreed by the consenting parent of the child and the host family volunteer:

(a) Mail/Email

- (1) A child cared for by a host family home has the right to receive mail/email without prior reading or prior censorship as is appropriate for the child's age and capacity. However, a host family home provider may require the child to open the mail in the presence of the host family home provider if there is reasonable cause to suspect that the delivery contains something that could be harmful to the child or others in the household.
- (2) Nothing contained in paragraphs (1) or (2) of this subdivision shall be construed to permit a child's use of mail/email for fraudulent, illegal, or illicit purposes.

- (3) The host family home provider may require the child to open mail/email arriving from a predesignated person in the presence of the host family home provider when it is anticipated that mail/email from a parent or other person is likely to cause emotional harm to the child, and that such potential harm could be lessened with the presence of the host family home provider.
- (4) A child cared for in a host family home has an unrestricted right to send mail/email without prior censorship or prior reading as is appropriate for the child's age and capacity. However, a host family home provider may require the child to provide the host family home provider with access to any mail/email if there is reasonable cause to suspect that it contains something that could be harmful to the child or others in the household.

(b) Telephone

- (1) A child placed in a host family home shall have the right to receive or refuse any and all calls made to the child during reasonable hours or to a particular telephone number to be set by the host family home provider.
- (2) A child placed in a host family home shall be allowed to call any person of the child's choosing; however, the time, duration, and cost of such calls may be restricted by the limits of the host family home provider.
- (3) Nothing in paragraphs (1) or (2) of this subdivision shall be construed or permit the child's use of the telephone for fraudulent, illegal, or illicit purposes.
- (4) Except at the child's request or as is appropriate for the child's age and capacity, host family home providers shall not listen in on a child's telephone conversation. An area that affords the child a reasonable degree of privacy shall be provided for the purpose of receiving and initiating calls, whenever physically possible to provide such an area.

§ 444.13 Nonrenewal or revocation of approval of host family homes

- (a) Host family home agency practice and procedure for nonrenewal or revocation of the approval of a host family home must include:
 - (1) advising the host family host home before the expiration of approval date that the host family home agency plans on not renewing approval;
 - (2) nonrenewal or revocation of an approved host family home may be based upon such factors as failure to meet one or more of the criteria for approval or upon the health or safety of the child placed in the host family home; and
 - (3) the reason(s) for nonrenewal or revocation must be specified in a letter from the host family home agency to the host family home postmarked at least 20 days prior to nonrenewal or revocation.
- (b) When the approval of a host family home expires because of nonrenewal or is revoked, the child(ren) placed by the host family home agency in accordance with the host family home agreement with the child's parent or parents must be removed from such home.

§444.14 Administration of the host family home program

- (a) Each host family home agency must maintain and keep current and available a manual or manuals that clearly state the policies of such host family home agency with respect to the program it operates.
- (b) Each host family home agency must provide training to host families to prepare them to care for children. Training should include trauma informed care.
- (c) The host family home agency must establish a procedure to review and evaluate the backgrounds of and information supplied by applicants for professional, paraprofessional, and volunteer positions with the host family home agency who have the potential for regular and substantial contact with children served by the host family home agency.
- (d) Such procedure must require that each applicant for a professional, paraprofessional or volunteer position submit a sworn statement indicating whether, to the best of the applicant's knowledge, the applicant has ever been convicted of a crime in New York or in any other jurisdiction.
- (e) Such procedure must require each applicant for an employment position with the host family home agency as authorized by section 378-a of the Social Services Law, to obtain criminal history background checks for certain prospective employees who will have the potential for substantial, unsupervised or unrestricted physical contact with children.
 - (i) If an applicant has been convicted of a crime, the host family home agency must determine, in accordance with any guidelines or regulations developed and disseminated by OCFS whether to hire or use the person as an employee.
 - (ii) If the agency determines it will hire or use the person, the agency must maintain a written record, as part of the application file or employment or other personnel record of such person, of the reason(s) why such person was determined to be appropriate and acceptable as an employee.
- (f) require applicants for an employment position with the host family home agency to complete the forms that are necessary to inquire of OCFS whether the applicant is the subject of an indicated child abuse or maltreatment report on file with the Statewide Central Register of Child Abuse and Maltreatment and to inquire of the Justice Center for the Protection of People with Special Needs whether the applicant is listed on the register of substantiated Category one cases of abuse or neglect maintained by the Justice Center for the Protection of People with Special Needs;
- (g) inquire of OCFS whether the applicant is the subject of an indicated report of child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and Maltreatment and inquire of the Justice Center for the Protection of People with Special Needs whether the applicant is listed on the register of substantiated Category one cases of abuse or neglect maintained by the Justice Center for the Protection of People with Special Needs;
- (h) determine, on the basis of the information it has available and in accordance with guidelines developed by OCFS, whether to approve the application if an applicant is the subject of an indicated report of child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and Maltreatment and/or is listed on the register of substantiated category one cases of abuse or neglect maintained by the Justice Center for the Protection of People with

Special Needs; If the host family home agency determines that it will approve the applicant the host family home agency must maintain a written record of the reason(s) why the applicant was determined to be appropriate;

- (i) Each host family home agency must apply and maintain a valid operating certificate or other instrument of approval issued by OCFS, which among other things indicates compliance with all relevant laws, regulations and policies of OCFS.

§444.15 Nondiscriminatory treatment

- (a) Host family home agency staff and volunteers shall not engage in or condone discrimination or harassment against prospective host family home applicants, host family home providers, or children or the parents of children seeking services or served by the host family home agency on the basis of race, creed, color, national origin, age, sex, religion, sexual orientation, gender identity or expression, marital status, or disability. Host family home agencies must promote and maintain a safe environment, take reasonable steps to prevent discrimination and harassment, promptly investigate incidents of discrimination and harassment by staff and volunteers, and take reasonable and appropriate corrective or disciplinary action when such incidents occur.
- (b) Host family home providers shall not engage in or condone discrimination or harassment against children, or the parents of children placed with the host family on the basis of race, creed, color, national origin, age, sex, religion, sexual orientation, gender identity or expression, marital status, or disability.
- (c) For the purposes of this section, the term *gender identity or expression* means having or being perceived as having a gender identity, self-image, appearance, behavior or expression whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the sex assigned to that person at birth. *Gender identity* refers to a person's internal sense of self as male, female, no gender or another gender, and *gender expression* refers to the manner in which a person expresses his or her gender through clothing, appearance, behavior, speech, or other means.