

CHAPTER 122E**REMOVAL OF FOSTER CHILDREN AND
CLOSURE OF FOSTER HOMES****Authority**

N.J.S.A. 30:4C-4(h) and 30:4C-26a.

Source and Effective Date

R.1998 d.64, effective December 22, 1997.
See: 29 N.J.R. 4275(a), 30 N.J.R. 492(b).

Executive Order No. 66(1978) Expiration Date

Chapter 122E, Removal of Foster Children and Closure of Homes, expires on December 22, 2002.

Chapter Historical Note

Chapter 122E, Removal of Foster Children and Closure of Foster Homes, was adopted as new rules by R.1993 d.18, effective January 4, 1993 (operative July 1, 1993). See: 23 N.J.R. 3708(a), 25 N.J.R. 127(a).

Pursuant to Executive Order No. 66(1978), Chapter 122E, Removal of Foster Children and Closure of Foster Homes, was readopted as R.1998 d.64. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS**10:122E-1.1 Authority**

Pursuant to N.J.S.A. 30:4C-4(h) and 30:4C-26a, the Division of Youth and Family Services, Department of Human Services, is authorized to establish rules for the removal by the Division of a foster child from a foster home and for the closure of a foster home. Under the above statute, the Division has the discretionary authority to remove a foster child from a foster home at any time with or without the consent of the foster parent, parent or foster child.

Case Notes

Child Placement Review Act was not proper vehicle for resolution of what foster home a child may reside in; issue of removal of child and placed with other foster parents was matter to be resolved by the Director for Division of Youth and Family Services and reviewed by Appellate Division. State in Interest of J.B., 293 N.J.Super. 485, 681 A.2d 668 (Ch.1996).

10:122E-1.2 Purpose

(a) The first purpose of this chapter is to describe when it is appropriate for the Division to remove a foster child from a foster home. A foster child may be removed from a foster home in order to protect the foster child from risk of harm, to ensure that the case goal is implemented, and to ensure that the interests of the Division, the foster child, the parents and the foster parent are considered.

(b) The second purpose is to ensure that quality foster home resources are retained for the placement of children. Accordingly, clear guidelines are provided for the closure of a foster home when circumstances exist or develop which indicate that the foster parents cannot provide proper and safe care to children placed in the home or do not wish to continue to provide foster care.

10:122E-1.3 Scope

The provisions of this chapter shall apply to each foster child, his or her family, each foster family approved by the Division and the Division.

10:122E-1.4 Definitions

The definitions in N.J.A.C. 10:122B-1.4 are hereby incorporated in this chapter by reference.

**SUBCHAPTER 2. REMOVING THE CHILD FROM
THE FOSTER HOME****10:122E-2.1 Removal in emergency situations**

(a) The Division representative shall remove a foster child from a foster home when the Division determines that

the foster child is at imminent risk of harm in the foster home.

(b) When abuse or neglect of any child in a foster home is substantiated, the office manager may consult with the Institutional Abuse Investigation Unit of the Division, when that unit conducted the child abuse and neglect investigation.

(c) When abuse or neglect of any child in a foster home is substantiated, the office manager shall:

1. Determine whether to remove any foster child in the foster home and, if necessary, direct a Division representative to remove the foster child; or

2. Recommend to the Division Director that a foster child continue to be placed in the foster home, based upon the considerations set forth in N.J.A.C. 10:122E-2.5(a).

(d) A foster parent may request an emergency removal of a foster child and the Division shall remove the foster child when:

1. The foster child is at risk of harm if he or she remains in the foster home; or

2. The foster family is at risk of harm if the foster child remains in the foster home.

(e) A foster parent may request an emergency removal of a foster child when the foster family is experiencing a personal emergency and is unable to make alternate appropriate plans for the foster child. The Division shall respond promptly and shall remove the foster child when necessary.

(f) A foster child may request emergency removal from his or her foster home and the Division shall remove the foster child when the foster child is at imminent risk of harm in the foster home.

(g) In all emergency cases, the Division shall document in the foster child's case record and the foster home record, the decision to remove or not remove the foster child and shall inform the foster parent, the foster child, the parents and other interested parties of the outcome.

Amended by R.1998 d.64, effective January 20, 1998.
See: 29 N.J.R. 4275(a), 30 N.J.R. 492(b).

10:122E-2.2 Removal in non-emergency situations

(a) The Division may remove a foster child from a foster home for any of the following reasons:

1. The foster child's case goal is furthered or achieved by the move or a court order is being followed, for example, return to family, placement in an adoptive home or uniting a foster child with siblings.

2. The foster child has a need which cannot be met by the current foster family.

3. There is documented evidence that the foster family engages in behavior which is detrimental to any foster child.

4. There is documented evidence that the foster family disagrees with the approved case plan and repeatedly fails to cooperate with the Division or to make the foster child available for visits or services which are part of the approved case plan, despite the Division's attempts to involve the foster family in remediating the situation.

5. The foster family has a pattern of violating any Division rules, which may have a negative impact on any foster child, despite attempts by the Division to ensure compliance.

(b) A foster parent may request that a foster child be removed, giving the Division 15 days notice to make suitable alternate arrangements. The foster parent shall state the reason for the request.

(c) A foster child may request to be removed from a foster home. The foster child shall state the reason for the request.

(d) The parent of a foster child may request that the foster child be removed from the foster home. The parent shall state the reason for the request.

10:122E-2.3 Procedures prior to a non-emergency removal

(a) Prior to a non-emergency removal, the Division representative shall interview the foster child, the foster parent, and any appropriate collateral contacts, including the parent, to determine:

1. Information from the foster child about any problems with the placement and his or her preferences;

2. Information from the foster parent about any problems with the placement and his or her preferences;

3. Information from the parent about any problems with the placement and his or her preferences, when the parent requests removal; and

4. Whether support services can remedy the problem.

(b) The Division representative shall inform the foster child, the foster parent, the parent, and any appropriate contacts at least 30 days prior to the move when the foster child will be removed to further or achieve the case goal or as soon as possible when a court order is being followed.

(c) The Division representative shall inform the parent of the need to change placement, if he or she is available.

(d) The Division representative shall remove the foster child within 15 days of the foster parent's request.