

## CHAPTER 122B

### FOSTER CARE

#### Authority

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

#### Source and Effective Date

R.2003 d.254, effective June 5, 2003.  
See: 35 N.J.R. 516(a), 35 N.J.R. 2922(a).

#### Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 122B, Foster Care, expires on December 2, 2008. See: 40 N.J.R. 3924(a).

#### Chapter Historical Note

Chapter 122B, formerly Family Day Care Standards, was adopted pursuant to N.J.S.A. 30:1-12 and 30:4C-26a as R.1979 d.359, effective September 11, 1979, and originally codified as Chapter 122, Subchapter 4. See: 10 N.J.R. 539(a), 11 N.J.R. 519(b).

Chapter 122, Subchapter 4 was recodified as Chapter 122B by R.1980 d.314, effective January 1, 1981. See: 12 N.J.R. 39(a), 12 N.J.R. 483(a).

Pursuant to Executive Order No. 66(1978), Chapter 122B was re-adopted as R.1984 d.428, effective September 10, 1984. See: 16 N.J.R. 1936(a), 16 N.J.R. 2674(a).

Chapter 126, Manual of Requirements for Family Day Care Registration, adopted as R.1988 d.507, effective November 7, 1988, superseded and incorporated the provisions of Chapter 122B, Family Day Care Standards. See: 20 N.J.R. 1508(a), 20 N.J.R. 2774(b).

Pursuant to Executive Order No. 66 (1978), Chapter 122B, Family Day Care Standards, expired on September 10, 1989.

Chapter 122B, Requirements for Foster Care, was adopted as R.1993 d.15, effective January 4, 1993 (operative July 1, 1993). See: 23 N.J.R. 3693(a), 25 N.J.R. 116(a).

Pursuant to Executive Order No. 66(1978), Chapter 122B, Requirements for Foster Care, was readopted as R.1998 d.61, effective December 22, 1997. See: 29 N.J.R. 4268(a), 30 N.J.R. 491(a).

Chapter 122B, Foster Care, was readopted as R.2003 d.254, effective June 5, 2003. As part of R.2003 d.254, Subchapter 2, Division Employees, Relatives and Household Members as Foster Parents, Subchapter 3, Criminal History Records Checks, Subchapter 4, Division and Contract Agency Responsibilities, and Subchapter 5, Provisions Related to Applicants and Foster Parents Licensed and Supervised by the Division, were adopted as new rules effective July 7, 2003. See: Source and Effective Date. See, also, section annotations.

### CHAPTER TABLE OF CONTENTS

#### SUBCHAPTER 1. GENERAL PROVISIONS

- 10:122B-1.1 Purpose
- 10:122B-1.2 Scope
- 10:122B-1.3 Definitions
- 10:122B-1.4 Service limitations
- 10:122B-1.5 Nondiscrimination
- 10:122B-1.6 Dispute resolution

#### SUBCHAPTER 2. DIVISION EMPLOYEES, RELATIVES AND HOUSEHOLD MEMBERS AS FOSTER PARENTS

- 10:122B-2.1 Division employees and household members as foster parents
- 10:122B-2.2 Relatives of an employee who have a separate household

#### SUBCHAPTER 3. CRIMINAL HISTORY RECORDS CHECKS

- 10:122B-3.1 Criminal history records checks

#### SUBCHAPTER 4. DIVISION AND CONTRACT AGENCY RESPONSIBILITIES

- 10:122B-4.1 Division or contract agency responsibilities to a foster parent

#### SUBCHAPTER 5. PROVISIONS RELATED TO APPLICANTS AND FOSTER PARENTS LICENSED AND SUPERVISED BY THE DIVISION

- 10:122B-5.1 Pre-service training
- 10:122B-5.2 Reimbursement for foster parent applicant
- 10:122B-5.3 Home visit
- 10:122B-5.4 Foster parent applicant withdrawal
- 10:122B-5.5 Transportation reimbursement
- 10:122B-5.6 Foster parent's employment and supervision or child care for the foster child

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 10:122B-1.1 Purpose

(a) The purpose of this chapter is to state:

1. The definition of certain words and terms used in this chapter and N.J.A.C. 10:122D and 10:122E;
2. The Division's non-discrimination policy regarding foster parent applicants, foster parents, and foster children;
3. When and how services to foster children may be limited;
4. The circumstances under which a Division employee, household member, or relative can become a foster parent;
5. The Division's responsibilities for completing the home study process;
6. The Division's and contract agencies' responsibilities to the foster parent;
7. When a foster parent applicant can be reimbursed for a physical examination and other expenses incurred related to becoming a licensed foster parent;

8. How the Division approves and pays for child care when the foster parent is working; and

9. The Division's pre-service training program.

(b) The purpose of N.J.A.C. 10:122B, 10:122C, 10:122D and 10:122E does not:

1. Create an employer/employee relationship between the Division and a licensed foster parent; or

2. Create any right to be a foster parent, apart from that which may exist under statute or case law.

Recodified from N.J.A.C. 10:122B-1.2 and amended by R.2003 d.254, effective July 7, 2003.

See: 35 N.J.R. 516(a), 35 N.J.R. 2922(a).

Rewrote the section. Former N.J.A.C. 10:122B-1.1, Authority, repealed.

### 10:122B-1.2 Scope

(a) The provisions of this chapter and N.J.A.C. 10:122D and 10:122E shall apply to each person licensed by the Division to provide foster care services for a child under the Division's supervision and to each household member; to each person making application to be a foster parent for the general placement of children and to each household member; and to each Division representative or contract agency employee responsible for studying, reevaluating or licensing foster parents and their families or providing services to children in foster care.

(b) N.J.A.C. 10:122B-5 applies to Division representatives and foster parents licensed and supervised directly by the Division, and not to a contract agency's employees and foster parents.

(c) The regulatory framework of this series of chapters on foster care services includes this chapter and N.J.A.C. 10:122C, Licensure of Foster Homes, N.J.A.C. 10:122D, Foster Care Services, and N.J.A.C. 10:122E, Removal of Foster Children and Closure of Foster Homes. The rules contained in N.J.A.C. 10:122B, 10:122D and 10:122E are to be used in conjunction with the rules in N.J.A.C. 10:122C when applied to foster homes under the supervision of the Division.

Recodified from N.J.A.C. 10:122B-1.3 and amended by R.2003 d.254, effective July 7, 2003.

See: 35 N.J.R. 516(a), 35 N.J.R. 2922(a).

Rewrote the section. Former N.J.A.C. 10:122B-1.2, Purpose, recodified to N.J.A.C. 10:122B-1.1.

### 10:122B-1.3 Definitions

(a) The definitions in N.J.A.C. 10:122C-1.2 and 1.3 are hereby incorporated into this chapter by reference.

(b) The following words and terms used in this chapter and in N.J.A.C. 10:122D and 10:122E shall have the following meanings, unless the context clearly indicates otherwise:

"Adult" means a person 18 years of age or older.

"Child" means a person under 18 years of age except as otherwise provided by N.J.S.A. 9:17B-2f.

"Contract agency" means an organization under contract with the Division to provide an array of foster care services to the Division. Services may include recruitment, screening, assessment, training, and management of foster homes serving children.

"Division Director" means the Director of the Division of Youth and Family Services.

"Division representative" means a professional employee of the Division of Youth and Family Services.

"Foster home" means a private residence in which board, lodging, care, and temporary out-of-home placement services are provided by a foster parent on a 24-hour basis to a child under the auspices of the Division and which is licensed as a foster home in accordance with N.J.A.C. 10:122C.

"Goal" means the result toward which effort is directed.

"Office manager" means a Division employee charged with the direction of a field office of the Division.

Amended by R.1998 d.61, effective January 20, 1998.

See: 29 N.J.R. 4268(a), 30 N.J.R. 491(a).

In the definition of "Child" added an exception; and deleted a former definition of "Dispositional conference".

Recodified from N.J.A.C. 10:122B-1.4 and amended by R.2003 d.254, effective July 7, 2003.

See: 35 N.J.R. 516(a), 35 N.J.R. 2922(a).

Added (a); designated former introductory paragraph as (b) and rewrote the paragraph; added "Contract Agency" and "Division Director"; deleted "Case goal", "Corporal punishment", "Department", "Division", "Division Director", "Foster child", "Foster parent", and "Foster parent applicant" "Household member" "Primary caretaker"; rewrote "Foster home". Former N.J.A.C. 10:122B-1.3, Scope, recodified to N.J.A.C. 10:122B-1.2.

### 10:122B-1.4 Service limitations

(a) The Division shall provide needed services within the limits of legislative appropriations to all eligible foster children and their families in similar circumstances. The provision of services shall also be subject to limitations due to actual ability of the Division to provide such services directly or by purchasing such services from appropriate privately sponsored agencies or institutions.

(b) The demand for social services frequently exceeds the funds available to provide them. Therefore, in accordance with N.J.S.A. 30:4C-13, the Division Director may establish Division-wide service limitations based upon the need to focus finite resources to serve those individuals most in need. Service limitations shall be published within 90 days of imposition in the Public Notices section of the New Jersey Register.

Recodified from N.J.A.C. 10:122B-1.5 by R.2003 d.254, effective July 7, 2003.

See: 35 N.J.R. 516(a), 35 N.J.R. 2922(a).

Former N.J.A.C. 10:122B-1.4, Definitions, recodified to N.J.A.C. 10:122B-1.3.

**10:122B-1.5 Nondiscrimination**

(a) Pursuant to 42 U.S.C. § 671(a)(18), neither the Division nor a contract agency providing foster care services shall deny to any individual the opportunity to become a foster parent on the basis of the race, color, or national origin of the individual or of the child involved; or delay or deny the placement of a child into foster care on the basis of the race, color, or national origin of the foster parent or child involved.

(b) Neither the Division nor any contract agency providing foster care services shall discriminate with regards to the licensing of a foster parent or to providing foster care in accordance with N.J.A.C. 10:122C-1.4, on the basis of age; disability; gender; religion; sexual orientation; parental status; or birth status, against:

1. Any person who requests information about becoming a foster parent;
2. A foster parent applicant;
3. A licensed foster parent;
4. A child needing placement in a foster home; or
5. A child placed in a foster home.

(c) Neither the Division nor any contract agency providing foster care services shall deny an individual the opportunity to become a foster parent on the basis of marital status.

(d) When a couple lives together, both partners shall be considered to be foster parents who shall meet the standards contained in N.J.A.C. 10:122C.

New Rule, R.1998 d.61, effective January 20, 1998.

See: 29 N.J.R. 4268(a), 30 N.J.R. 491(a).

Recodified from N.J.A.C. 10:122B-1.6 and amended by R.2003 d.254, effective July 7, 2003.

See: 35 N.J.R. 516(a), 35 N.J.R. 2922(a).

Rewrote the section. Former N.J.A.C. 10:122B-1.5, Service limitations, recodified to N.J.A.C. 10:122B-1.4.

**10:122B-1.6 Dispute resolution**

Any person included in the scope of these rules, as specified in N.J.A.C. 10:122B-1.2(a), shall refer to N.J.A.C. 10:120A, Dispute Resolution, N.J.A.C. 10:120-2, Hearings, and N.J.A.C. 10:122C-2.4 to determine if he or she has any opportunity available to resolve a dispute with the Division or a contract agency.

New Rule, R.1998 d.61, effective January 20, 1998.

See: 29 N.J.R. 4268(a), 30 N.J.R. 491(a).

Recodified from N.J.A.C. 10:122B-1.7 and amended by R.2003 d.254, effective July 7, 2003.

See: 35 N.J.R. 516(a), 35 N.J.R. 2922(a).

Amended the N.J.A.C. reference following "as specified in", inserted "N.J.A.C. 10:120-2, Hearings, and N.J.A.C. 10:122C-2.4" preceding "to determine", and inserted "or a contract agency" following "Division". Former N.J.A.C. 10:122B-1.6, Nondiscrimination, recodified to N.J.A.C. 10:122B-1.5.

## SUBCHAPTER 2. DIVISION EMPLOYEES, RELATIVES AND HOUSEHOLD MEMBERS AS FOSTER PARENTS

**10:122B-2.1 Division employees and household members as foster parents**

(a) A Division employee or a member of the employee's household can become a licensed foster parent for a child under the Division's supervision only under the following circumstances:

1. A child needing an out-of-home placement has a kinship connection to a relative or a family friend who is a Division employee or a member of the employee's household, including a child who is a full or half-sibling of a child already in the employee's household; and the employee offers the most appropriate out-of-home placement available for the child until a permanent plan is achieved in accordance with N.J.S.A. 30:4C-60 et seq.;

2. A child who needs replacement has an established relationship with the employee or a member of the employee's household based on prior placement with the employee or household member; or

3. The employee or member of the employee's household was licensed as a foster parent prior to the employee being hired by the Division and:

i. A foster child continues to reside in the employee's home;

ii. The foster home continues to meet the foster home licensing standards;

iii. The employee or the foster parent who is a member of the employee's household agrees in writing to accept no additional children for placement unless the conditions in (a)1 or 2 above apply; and

iv. The employee or member of the employee's household understands that he or she will no longer be a foster parent when each foster child currently placed leaves the foster family, achieves permanency, or is no longer in placement.

(b) The study of an employee's home shall be conducted by a Division representative assigned to a regional office where the employee does not work and where the child's case is not supervised when applying to the Division to be a foster parent.

(c) The Division and each contract agency shall take every measure to prevent any undue influence by the Division employee on the study process and decision-making, as well as to prevent the appearance of influence.

**10:122B-2.2 Relatives of an employee who have a separate household**

(a) For the purpose of this subchapter, the term "relative" is defined as a person connected to a Division employee by blood, marriage, or adoption.

(b) Any relative of a Division employee may apply and may be licensed to be a foster parent for the general placement of children as long as the relative lives in a separate household from the employee.

(c) A Division representative of the office serving the geographic area in which the relative lives completes the home study unless the employee works in that office. In that situation, the Deputy Director, Program Operations, assigns another office to complete the home study.

(d) The Division shall employ all possible measures to prevent any undue influence by the Division employee on the home study and licensing process. The Division representatives shall secure all records regarding the relative's home study and foster home.

**SUBCHAPTER 3. CRIMINAL HISTORY RECORDS CHECKS****10:122B-3.1 Criminal history records checks**

(a) The Division representative or contract agency employee shall inform the foster parent applicant that fingerprints for State and Federal criminal history records checks must be taken, pursuant to N.J.S.A. 30:4C-26.8, for:

1. Each foster parent applicant and each adult household member; and
2. Each new adult household member who is new to the family, including all children who reach 18 years of age.

(b) The Division representative or contract agency employee shall also inform the foster parent applicant of the procedures for getting the fingerprints taken.

(c) The Division representative or contract agency employee shall obtain the results of the State and Federal criminal history records checks for each foster parent applicant and adult household member after the fingerprints have been taken.

(d) Each Division representative and contract agency employee shall keep confidential all criminal history information obtained regarding the foster parent applicant and each household member.

**SUBCHAPTER 4. DIVISION AND CONTRACT AGENCY RESPONSIBILITIES****10:122B-4.1 Division or contract agency responsibilities to a foster parent**

(a) The Division representative or contract agency employee shall work with the foster parent to provide the foster child with reasonable opportunities to attend religious activities and services in accordance with the foster child's preference and the wishes of the child's own parents.

(b) The Division representative or contract agency employee shall provide the foster parent with information on:

1. Nutrition;
2. Child health needs; and
3. Appropriate disciplinary practices.

(c) The Division representative or contract agency employee shall obtain the school transfer card promptly and give it to the foster parent if there is a need for the foster child to transfer to a different school upon placement in this foster home.

(d) The Division representative or contract agency employee shall assist the foster parent to support and encourage the foster child to engage in recreational and social activities appropriate to the age, interests and abilities of the foster child.

(e) The Division representative or contract agency employee shall identify with the foster parent a foster child's special transportation needs, if any, and how they will be met.

(f) The Division representative or contract agency employee shall provide the foster parent with a means of access to the Division on a 24-hour basis.

(g) The Division shall comply with the provisions of the agreement between the foster parent and the Division, including the system for payment of reimbursement.

(h) The Division representative or contract agency employee shall establish the foster parent's role in working with the parent to achieve the child's case goal. The Division representative or contract agency employee shall support the foster parent in fulfilling his or her role.

(i) The Division representative or contract agency employee shall inform the foster parent of the standards of confidentiality contained in N.J.S.A. 9:6-8.10a, 45 C.F.R. 205.50 and N.J.A.C. 10:133G.

## SUBCHAPTER 5. PROVISIONS RELATED TO APPLICANTS AND FOSTER PARENTS LICENSED AND SUPERVISED BY THE DIVISION

### 10:122B-5.1 Pre-service training

(a) The Division shall hold pre-service training on a monthly basis in various locations throughout the State.

1. The Division shall use a standardized pre-service training curriculum.

2. A Division representative may provide the pre-service training at the applicant's home if the foster parent applicant demonstrates a compelling need to receive the training in his or her home.

(b) A Division representative shall conduct the pre-service training program and shall utilize an experienced foster parent who is approved by the Division as a co-trainer, as resources permit.

(c) During the initial phase of the pre-service training, the Division representative shall provide information about the standards for becoming a foster parent, the home study process, the foster home resource needs of the Division, and the Division's policies and procedures related to foster care, as specified in N.J.A.C. 10:122B, 10:122C, 10:122D and 10:122E. The pre-service training shall include an explanation of:

1. The difference between the Division's foster care program and adoption program; and

2. The Division's requirements for becoming a foster parent, as outlined in N.J.A.C. 10:122C.

### 10:122B-5.2 Reimbursement for foster parent applicant

(a) The foster parent applicant may request reimbursement of the cost of a physical examination necessary to provide the information required in N.J.A.C. 10:122C. The Division representative shall approve reimbursement at a rate determined by the Division, if the foster parent applicant's family has a verified income below 150 percent of the Federal Poverty Income Guidelines, as published in the Federal Register, and the examination is not available free of charge.

(b) The foster parent applicant may file for reimbursement for transportation, parking and babysitting costs incurred by the foster parent applicant which are directly related to attendance at the pre-service training sessions. The foster parent applicant may file for reimbursement after completing the entire pre-service training program.

(c) The rates of reimbursement for the costs listed in (b) above are:

1. Car mileage at \$.31 per mile for travel to and from the training site;

2. The cost of bus or train fare, with a receipt;

3. The cost of a taxi, if no other means of transportation is available, with a receipt;

4. The cost of parking and tolls, with a receipt; and

5. Babysitting services at \$2.50 per hour for one or two children, and \$4.00 per hour for three or more children.

### 10:122B-5.3 Home visit

(a) The Division representative shall visit the foster parent applicant's home at least one time as part of the study process.

(b) During the home visit, the Division representative shall:

1. Assess compliance with the sleeping space and life safety standards, as outlined in N.J.A.C. 10:122C-1.13 and 1.14;

2. Interview each household member who is not participating in the pre-service training;

3. Discuss any inconsistencies or concerns by any party regarding any information gathered during the assessment process;

4. Verify identifying information about each family member and household member listed on the application;

5. Discuss the type of child acceptable and the potential impact of foster care on the family; and

6. Discuss any other questions raised by the foster parent applicant or any household member.

### 10:122B-5.4 Foster parent applicant withdrawal

(a) A foster parent applicant may withdraw his or her application at any time during the licensing process.

(b) The Division shall consider that the foster parent applicant has withdrawn if the foster parent applicant:

1. Fails to complete the application process; or

2. States that he or she has decided to withdraw.

(c) The Division representative shall give the foster parent applicant written notice acknowledging the withdrawal and informing the foster parent applicant that he or she may reapply at any time.

### 10:122B-5.5 Transportation reimbursement

The Division shall reimburse the foster parent for transportation for a foster child's special needs with prior approval of the office manager. Special needs may include the treatment of physical, emotional, mental or cognitive conditions or to comply with a court summons or court order.

**10:122B-5.6 Foster parent's employment and supervision or child care for the foster child**

(a) If a single foster parent is, or both foster parents are, employed outside the home, the Division representative shall develop with the foster parent, as part of the case plan, a plan for the care and supervision of each foster child while the foster parent is at work. The plan shall be appropriate to the age and needs of the foster child, subject to supervisory approval, and in compliance with N.J.A.C. 10:122C-1.9.

(b) If the plan is approved, the Division shall pay for child care arrangements as outlined in the case plan, according to the rates established in N.J.A.C. 10:15-10.1.

(c) The participants of the Division's placement review, as indicated in N.J.A.C. 10:133H-3.6 and 3.7, shall review the child care plan.