

CHAPTER 121A
MANUAL OF REQUIREMENTS FOR
ADOPTION AGENCIES

Authority

N.J.S.A. 9:3-37 et seq., 30:1A-1 et seq. and 30:4C-4(b).

Source and Effective Date

R.2008 d.334, effective November 3, 2008.
See: 40 N.J.R. 2193(a), 40 N.J.R. 6464(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1.c(2), Chapter 121A, Manual of Requirements for Adoption Agencies, expires on May 1, 2016. See: 47 N.J.R. 3078(a).

Chapter Historical Note

Chapter 121A, Manual of Standards for Adoption Agencies, was adopted as R.1981 d.298, effective August 6, 1981 (operative October 1, 1981). See: 13 N.J.R. 99(a), 13 N.J.R. 516(a).

Pursuant to Executive Order No. 66(1978), Chapter 121A, Manual of Standards for Adoption Agencies, was readopted as R.1986 d.324, effective July 14, 1986. See: 18 N.J.R. 1057(a), 18 N.J.R. 1609(a).

Chapter 121A, Manual of Standards for Adoption Agencies, was repealed and a new Chapter 121A, Manual of Requirements for Adoption Agencies, was adopted as R.1987 d.505, effective December 7, 1987. See: 19 N.J.R. 1519(a), 19 N.J.R. 2288(a).

Pursuant to Executive Order No. 66(1978), Chapter 121A, Manual of Requirements for Adoption Agencies, was readopted as R.1992 d.514, effective November 25, 1992. See: 24 N.J.R. 3500(a), 24 N.J.R. 4552(a).

Pursuant to Executive Order No. 66(1978), Chapter 121A, Manual of Requirements for Adoption Agencies, was readopted as R.1997 d.480, effective October 20, 1997. See: 29 N.J.R. 3230(a), 29 N.J.R. 4857(a).

Chapter 121A, Manual of Requirements for Adoption Agencies, was readopted as R.2003 d.150, effective March 17, 2003. See: 34 N.J.R. 3922(a), 35 N.J.R. 1562(a). Chapter 121A, Manual of Requirements for Adoption Agencies, expired on March 17, 2008.

Chapter 121A, Manual of Requirements for Adoption Agencies, was adopted as new rules by R.2008 d.334, effective November 3, 2008. See: Source and Effective Date.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 121A, Manual of Requirements for Adoption Agencies, was scheduled to expire on November 3, 2015. See: 43 N.J.R. 1203(a).

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SUBCHAPTER 1. GENERAL PROVISIONS

10:121A-1.1 Scope

This chapter constitutes comprehensive rules governing the certification of adoption agencies pursuant to the State Adoption Law (N.J.S.A. 9:3-37 et seq.).

Case Notes

Nonresidents may bring adoption actions and Superior Court has subject matter jurisdiction to grant them adoption. *Matter of Adoption of A Child by D.F.H.*, 230 N.J.Super. 445, 553 A.2d 866 (A.D.1989).

10:121A-1.2 Purpose

(a) The purpose of this chapter is to prevent the exploitation and to protect the health and well-being of children being served by adoption agencies, as well as to protect the legal rights of children and birth and adoptive parents by establishing standards of agency organization and administration, professional training, experience, practices and requirements relating to the responsibility of agencies providing adoption services in New Jersey.

(b) This chapter constitutes minimum baseline requirements to ensure that the basic programmatic and administrative needs of adoption agencies and the social service needs of the families and children they serve are met. Compliance with this chapter is necessary if an adoption agency is to open or operate, and no adoption agency is permitted to operate below the level of requirements specified in this chapter. This chapter is in no way intended to prohibit or prevent adoption agencies from going beyond the minimum requirements contained in these rules. The decision whether to exceed these requirements rests with each agency.

10:121A-1.3 Implementation and enforcement responsibility; information

The Office of Licensing of the New Jersey Department of Children and Families shall be responsible for implementing and enforcing this chapter. For further information or technical assistance in understanding and/or complying with this chapter, please contact:

Office of Licensing
Department of Children and Families
PO Box 717
Trenton, New Jersey 08625-0717
(609) 826-3999

Amended by R.1991 d.6, effective January 7, 1991.
See: 22 N.J.R. 2674(b), 23 N.J.R. 99(b).

Updated agency address.

Amended by R.2011 d.245, effective October 3, 2011.
See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

Substituted "Office of Licensing of the New Jersey Department of Children and Families" for "Bureau of Licensing of the New Jersey Division of Youth and Family Services (DYFS), Department of Human Services," and in the address, substituted "Office" for "Bureau", "Department of Children and Families" for "Division of Youth and Family Services" and "826-3999" for "292-8255".

10:121A-1.4 Legal authority

(a) This chapter is promulgated pursuant to the State Adoption Law (N.J.S.A. 9:3-37 et seq.), N.J.S.A. 30:1A-1 et seq. and 30:4C-4(b).

(b) Under the State Adoption Law, all private and public adoption agencies, both within New Jersey and outside the State that are involved in the placement of children for adoption in New Jersey, must be certified by the New Jersey Department of Children and Families in order to open and operate.

(c) In order to be eligible for a certificate of approval, an adoption agency shall demonstrate to the satisfaction of the Department of Children and Families compliance with the requirements of the State Adoption Law and with the rules contained in this chapter, which constitute minimum requirements only.

(d) These rules shall not be applicable to the adoption of adults.

Amended by R.2011 d.245, effective October 3, 2011.

See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

In (b), substituted "Children and Families" for "Human Services"; and in (c), substituted "Children and Families" for "Human Services or its duly authorized agent, the Bureau of Licensing of the Division of Youth and Family Services."

10:121A-1.5 Definition and types of adoptions

(a) "Adoption" means the legal transfer of all parental rights and responsibilities from the birth and/or legal parent(s) to another person who desires to assume those rights and responsibilities.

(b) Adoptions that are subject to the provisions of this manual are classified as follows:

1. "Agency adoption" is an adoption where the birth parent(s) and the adoptive parent(s) come to an agency independent of each other and there is no prior relationship for the purpose of adoption;

2. "Foreign adoption" is the adoption of a child who resides in a country other than the United States of America. An agency shall comply with the requirements of the Federal Immigration and Naturalization Act (P.L. 95-417), and any successor or amending legislation regarding the classification of an alien orphan child as an immediate relative for purposes of an immigration visa; and shall comply with each country's supervision and visitation requirements and relevant requirements of the Hague Convention on Intercountry Adoption when the child has entered the United States with the adoptive family;

3. "Identified adoption" is an adoption where the agency becomes involved in providing services to a birth parent(s) or legal parent(s) and/or a prospective adoptive parent(s) who is considering a plan to place the child for adoption in the prospective adoptive parent's home;

4. "Independent adoption" is an adoption where the child is received in the adoptive home from a source other than an agency. Subsequent to the placement, the court orders an agency to conduct an Adoption Complaint Investigation (ACI) in order to investigate the circumstances of the placement and to assess the adoptive home;

5. "Stepparent adoption" is an adoption of a child from a former marriage by the birth parent's current husband or wife; and

6. "Relative adoption" is an adoption of a child by a person(s) who is related by blood or marriage.

New Rule, R.1995 d.431, effective August 7, 1995.

See: 27 N.J.R. 661(a), 27 N.J.R. 2922(a).

Amended by R.2011 d.245, effective October 3, 2011.

See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

Rewrote (b)2.

10:121A-1.6 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Adoptee” means a person who has been placed in an adoptive home and whose adoption has been legally finalized.

“Adoption agency” or “agency” means a Department-certified public or private non-profit corporation organized for all or part of its purpose to provide adoption services to children, adoptees, adoption applicants and birth and/or adoptive parents. Adoption services may include: pre-placement, home study, placement, post-placement or post-adoption services or other related activities, including those requested by courts and other adoption agencies and organizations, whether or not the agencies and organizations are certified in New Jersey.

“Adoption applicant” means a prospective adoptive parent who has applied to adopt a child but who has not yet received a child for adoption placement.

“Adoption Complaint Investigation” means an investigation ordered by the court to determine the circumstances of a non-agency placement and to assess the suitability of the prospective adoptive parents. The investigation is conducted by a court-appointed State-approved adoption agency in response to the filing of an adoption petition on behalf of the prospective adoptive parents. Such investigation includes a home study and post-adoption services unless otherwise specified by the court.

“Adoptive parent” means a person with whom a child has been placed for adoption or who has adopted a child.

“Branch office” means a Department-certified adoption program that is a geographically separate but administratively dependent part of an agency.

“Certificate of approval” or “certificate” means a document issued by the Office of Licensing to an agency indicating that the agency is in substantial or full compliance with all applicable provisions of this chapter, and that there is no serious or imminent hazard to the health, safety or well-being of the children, birth parents, adoptive parents or adoptive applicants being served by the agency.

“Chapter” means the rules contained in the Manual of Requirements for Adoption Agencies, as specified in N.J.A.C. 10:121A-1.1 through 5.10.

“Child” means any person under 18 years of age.

“Conditional surrender” means a voluntary relinquishment of all parental rights by a birth parent, adoptive parent, or other person or agency authorized to exercise these rights by law, court order or otherwise for purposes of allowing a child to be adopted by a person(s) specified by the surrendering parent.

“Custody” means the general right to exercise continuing control over the person of a child derived from court order or otherwise.

“Denial of a certificate” means the withholding of a certificate of approval for which an agency has applied, based on

the agency’s failure or inability to comply with requirements of the State Adoption Law and/or of this chapter.

“Department” means the New Jersey Department of Children and Families.

“Division” means the Division of Child Protection and Permanency of the New Jersey Department of Children and Families.

“Executive director” or “administrator” means the person in a certified agency responsible for the overall administration and direction of the agency and its staff.

“Finalization” means the entry of a legal order of adoption issued by a court of competent jurisdiction, pursuant to N.J.S.A. 9:3-38 et seq.

“Foster care” means the temporary placement in an agency-approved private home of a child who is in the care or custody of an agency.

“Governing board” means the public or private body which has final legal responsibility for or authority over a certified adoption agency.

“Guardianship” means the right to exercise continuing control over the person or property or both of a child, including any specific right of control over an aspect of the child’s upbringing derived from court order.

“Home study” means the agency’s formal assessment of the capacity and readiness of prospective adoptive parents to adopt a child, including the agency’s written report and recommendation.

“Intermediary” means any person, firm, partnership, corporation, association or agency, whether located in New Jersey or not, who acts for or between any parent and any prospective adoptive parent or acts on behalf of either in connection with a placement for adoption of the parent’s child. An intermediary shall not receive money or other valuable consideration in connection with the placement of a child for adoption, pursuant to the State Adoption Law (N.J.S.A. 9:3-37).

“Manual of Requirements for Adoption Agencies” or “Manual of Requirements” means the rules promulgated in this chapter, which constitute minimum requirements for adoption agencies placing children for adoption in New Jersey.

“Office of Licensing” or “Office” means the Office of Licensing of the New Jersey Department of Children and Families.

“Parent” means an expectant mother or a birth parent or birth parents, including the biological father of a child born out of wedlock who has acknowledged the child or to whom the court has ordered notice to be given, or a parent or parents by adoption.

“Placement services” means any and all services offered by a certified agency to prospective adoptive children and families ranging from selection of a particular family for a particular child through the physical arrival of the child in the adoptive home.

“Post-adoption services” means any and all services offered by or through the auspices of an agency to any party involved in an adoption after finalization of the adoption.

“Post-placement services” means any and all services offered by or through the auspices of an agency to any member of an adoptive family from the placement of the child to finalization of the adoption.

“Pre-placement services” means any and all services offered by or through the auspices of an agency to birth parent(s) and child(ren) to evaluate and prepare them for an adoptive placement.

“Referring agency” means an agency or organization with whom a New Jersey-certified agency has a written agreement regarding the provision of adoption-related services in New Jersey.

“Revocation of a certificate” means a rescinding of an agency’s current certificate to operate because of the agency’s failure or refusal to comply with the requirements of the State Adoption Law and/or of this chapter.

“Shall” denotes a requirement of this chapter that an adoption agency must meet to qualify for a certificate.

“Should” denotes a recommendation reflecting goals towards which an adoption agency is encouraged to work.

“Social worker” means a professional staff member of an agency who possesses the required qualifications specified in this chapter and who works directly with children, adoptees, birth and/or adoptive parents and other relevant individuals.

“Social work supervisor” means a staff member of an agency who possesses the qualifications specified in this chapter and who supervises the professional staff who work directly with children, adoptees, birth and/or adoptive parents and other relevant individuals.

“Staff member” means any person employed by or working for or with an agency on a regularly scheduled basis, whether for compensation or not. This shall include full-time, part-time, voluntary, substitute, contract or consulting personnel.

“State Adoption Law” means N.J.S.A. 9:3-37 et seq., the statutes that New Jersey certified adoption agencies must comply with and authorizes this chapter, which provides rules to ensure the protection of children, legal rights of children and birth and adoptive parents who receive adoption services, as well as establishing requirements of agency organization and administration, professional training, experience, practices and requirements relating to the responsibility of adoption agencies providing adoption services in New Jersey.

“Substantial compliance” means compliance by an agency that does not meet all applicable requirements of the law and of this chapter, when there is no serious or imminent hazard to the health, safety or well-being of the children, birth parents, adoptive parents or adoptive applicants served by the agency.

“Subsidy” means the financial or other material support provided directly or made available to an adoptive family to assist in the adoptive placement, legal expenses of adoption, and/or continuing care of a child placed for adoption.

“Surrender” means a voluntary relinquishment of all parental rights by a birth parent, adoptive parent, or other person or agency authorized to exercise these rights by law, court order or otherwise, for purposes of allowing a child to be adopted.

“Suspension of a certificate” means a temporary rescinding of an agency’s current certificate of approval to operate. The suspended certificate may be reinstated by the Office of Licensing upon the agency’s compliance with requirements of the State Adoption Law and of this chapter.

“Termination of parental rights” means the transfer by an order of a court of competent jurisdiction of all rights of control and authority over a child from its birth parent(s) or prior adoptive parent(s) to an agency or other person.

Amended by R.1991 d.6, effective January 7, 1991.

See: 22 N.J.R. 2674(b), 23 N.J.R. 99(b).

Added definition: “Adoption Complaint Investigation.”

Amended by R.1992 d.514, effective December 21, 1992.

See: 24 N.J.R. 3500(a), 24 N.J.R. 4552(a).

Stylistic changes.

Administrative Correction.

See: 25 N.J.R. 2591(a).

Administrative Correction.

See: 25 N.J.R. 2883(b).

Recodified from 10:121A-1.5 and amended by R.1995 d.431, effective August 7, 1995.

See: 27 N.J.R. 661(a), 27 N.J.R. 2922(a).

Added definitions: “Conditional surrender”, “Intermediary” and “should”; deleted definitions: “Identified adoption” and “Independent adoption”.

Amended by R.2011 d.245, effective October 3, 2011.

See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

In the introductory paragraph, inserted “, unless the context clearly indicates otherwise”; in definitions “Adoption agency” and “Branch office”, substituted “Department-certified” for “Bureau-certified”; in definition “Adoption agency”, inserted a comma following “home study”; in definition “Adoption Complaint Investigation”, substituted “court-appointed” for “ court appointed” and inserted the last sentence; deleted definitions “Bureau”, “Regular certificate of approval” and “Temporary certificate of approval”; added definitions “Certificate of approval”, “Office of Licensing”, “State Adoption Law” and “Substantial compliance”; in definition “Denial of a certificate”, deleted “by the Bureau” following “withholding”; in definitions “Department” and “Division”, substituted “Children and Families” for “Human Services”; in definitions “Revocation of a certificate” and “Suspension of a certificate”, deleted “regular or temporary” following “current”; and in definition “Suspension of a certificate”, substituted “Office of Licensing” for “Bureau”.

Amended by R.2014 d.125, effective August 4, 2014.

See: 46 N.J.R. 271(a), 46 N.J.R. 1747(a).

In definition “Division”, substituted “Child Protection and Permanency” for “Youth and Family Services”.

10:121A-1.7 Compliance with State laws

(a) Any adoption agency whose principal office is located outside of this State shall be licensed, certified, or otherwise approved to operate in the state where the agency's principal office is located as a condition of applying for, securing and maintaining a certificate of approval in New Jersey.

(b) No certified adoption agency shall discriminate with regard to the provision of any adoption-related services on the basis of age, religion, marital status, civil union or employment status with regard to the selection of adoptive parents for any child. However, these factors may be considered, pursuant to N.J.S.A. 9:3-40, in determining whether the best interests of a child would be served by a particular placement for adoption or by finalization of an adoption.

(c) Pursuant to 42 U.S.C. § 671(a)(18), as amended by Pub. L. 104-188, the Small Business Job Protection Act of 1996, Section 1808, no certified adoption agency shall deny to any person the opportunity to become an adoptive or foster parent on the basis of the race, color or national origin of the child involved; or delay or deny the placement of a child for adoption or into foster care, or otherwise discriminate in making a placement decision on the basis of the race, color or national origin of the adoptive or foster parent or the child involved.

Recodified from 10:121A-1.6 by R.1995 d.431, effective August 7, 1995.

See: 27 N.J.R. 661(a), 27 N.J.R. 2922(a).

Amended by R.1997 d.480, effective November 17, 1997.

See: 29 N.J.R. 3230(a), 29 N.J.R. 4857(a).

Added (c).

Amended by R.2011 d.245, effective October 3, 2011.

See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

In (b), inserted “, civil union”, and updated the N.J.S.A. reference.

10:121A-1.8 Eligibility for a certificate of approval

(a) Any public or private non-profit firm, partnership, corporation, association, or agency located within or outside the State of New Jersey that provides adoption services to families in New Jersey or to children from New Jersey, whether as part or all of its function, shall secure and maintain a certificate of approval. Adoption services shall include any one or combination of the following:

1. Pre-placement services for children;
2. Home studies;
3. Placement services;
4. Post-placement services; and/or
5. Post-adoption services.

(b) The following are not subject to certification requirements under the law:

1. Foster care programs, unless operated as a support to, or as an integral part of the agency's adoption program, as specified in N.J.A.C. 10:121A-1.6;

2. Self-help or support groups that operate independent of an agency and provide adoption-related information and/or supportive peer assistance to members;

3. Lawyers, law offices or legal services offices that provide only legal services as permitted under the law and court rules;

4. Agencies, organizations or independent professionals that do not place children for adoption, but provide social work services, mental health, family services or similar services, to the general public, including adoptive families who may choose to use their services; and

5. Unpaid intermediaries, as specified in N.J.A.C. 10:121A-1.6.

Amended by R.1992 d.514, effective December 21, 1992.

See: 24 N.J.R. 3500(a), 24 N.J.R. 4552(a).

Adoptive parent recruitment and information services added at (a)6 and 7.

Recodified from 10:121A-1.7 and amended by R.1995 d.431, effective August 7, 1995.

See: 27 N.J.R. 661(a), 27 N.J.R. 2922(a).

Deleted (a)6 and (a)7 and added an exemption to certification requirements for unpaid intermediaries at (b)5.

Former N.J.A.C. 10:121A-1.8, Inter-country adoption, was repealed by R.1995 d.431.

SUBCHAPTER 2. CERTIFICATION PROCEDURES**10:121A-2.1 Application for a certificate of approval**

(a) An organization interested in providing any kind of adoption service shall first secure a certificate of approval from the Department, pursuant to the requirements of the State Adoption Law and of this chapter. Operation of an adoption agency without a valid certificate, as required by law, constitutes a crime of the third degree, pursuant to N.J.S.A. 9:3-39.

(b) The agency shall file a completed application for a new or renewed certificate with the Office of Licensing at least 60 calendar days prior to the anticipated date of operation or the expiration of an agency's existing certificate.

(c) An applicant for a new certificate shall submit to the Office of Licensing a written plan for the agency's operation that includes the following:

1. A statement of agency purpose, scope of adoption program and target groups to be served, program goals and objectives, description of services, and plans for coordination with other agencies and community resources;

2. A description of organizational structure, including the names of the board of directors and its committees, staff organization charts, number and qualifications of board members and names of executive officers and titles of offices held, such as president or chairperson;

3. A list of all branch offices of the adoption agency, if any;
4. A list of personnel, including all present and expected staff members who have direct contact with clients, their qualifications and duties;
5. A budget and financial plan, including actual and/or projected statement of revenues and expenses, documentation of sufficient resources to support agency operations, general/comprehensive liability insurance coverage for agency operations, and a listing of fees for service;
6. A copy of the forms to be used by the agency, including applications, intake, case record, evaluation, financial and statistical report forms;
7. A copy of agency incorporation papers and proof of not-for-profit status;
8. A copy of the agency's non-discrimination policy, as specified in N.J.A.C. 10:121A-1.7(b), and approved by the agency's governing board;
9. A copy of an audit or financial statement, if requested by the Office of Licensing; and
10. For agencies located outside of New Jersey, a copy of that agency's most current licensing or approval inspection report and the license or certificate that reflects the agency's licensing or approval status in that state and documentation that indicates that the agency has been in operation for at least two years.

(d) An agency applying for a renewal of a certificate of approval shall submit those items listed in (c)2, 3, 4 and 5 above, and (c)10 above, if applicable. An agency shall submit the item listed in (c)9 above upon request of the Office of Licensing.

Amended by R.1992 d.514, effective December 21, 1992.
See: 24 N.J.R. 3500(a), 24 N.J.R. 4552(a).

Requirements for out-of-State agencies added at (c)10.
Amended by R.2011 d.245, effective October 3, 2011.
See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

In (a), substituted "Department" for "Bureau" and "crime of the third degree" for "misdemeanor"; in (b), the introductory paragraph of (c), (c)9 and (d), substituted "Office of Licensing" for "Bureau"; in the introductory paragraph of (c), substituted "An applicant" for "Applicants"; in (c)2, inserted "and names of executive officers and titles of offices held, such as president or chairperson"; in (c)8, updated the N.J.A.C. reference; and in (d), substituted "(c)10" for "10".

10:121A-2.2 Issuance of a certificate of approval

(a) The Office of Licensing shall review the application for a certificate and shall conduct one or more field visits to in-State agencies and, at its discretion, conduct one or more field visits to out-of-State agencies to ensure that the agency is in compliance with all requirements of the State Adoption Law, N.J.S.A. 9:3-37 et seq., and of this chapter.

(b) After the Office of Licensing conducts an initial inspection of a new agency and finds the agency to be in substantial or full compliance with the State Adoption Law

and this chapter, the Office shall issue a certificate of approval.

(c) If the Office of Licensing issues a certificate of approval to an agency that is in substantial compliance with the requirements of the State Adoption Law and of this chapter, the Office shall provide written notification to the agency indicating the steps the agency must take to achieve full compliance.

(d) If the Office of Licensing determines that the agency cannot be issued a certificate of approval because there is a serious or imminent hazard to the health, safety or well-being of the children, birth parents, adoptive parents or adoptive applicants being served by the agency, the Office shall provide written notification to the agency indicating the steps the agency must take to secure a certificate of approval, if applicable.

(e) Each certification period shall be two years.

1. In determining the expiration date of the first certificate of approval, the Office of Licensing shall compute the two-year certification period from the date of issuance of the first certificate.

2. In determining the expiration date of a renewed certificate, the Office of Licensing shall compute the two-year certification period from the date on which the agency's previous certificate expired. If, however, the agency has ceased to operate for a period of six months following the expiration date of its previous certificate, the Office shall compute the date of expiration from the date of issuance of a new certificate.

(f) The certificate of approval shall be issued to a particular adoption agency at a particular location and shall not be transferable.

(g) The agency shall display the certificate at all times in a location of prominence within the agency.

(h) No adoption agency shall make claims either in advertising or in any written or verbal announcement or presentation contrary to its certification status.

(i) The Office of Licensing shall not issue a certificate to an out-of-State agency unless the agency has received a license or approval from that state's authorized licensing or regulatory agency and has been in operation for at least two years.

Amended by R.1991 d.6, effective January 7, 1991.
See: 22 N.J.R. 2674(b), 23 N.J.R. 99(b).

In (a): added text, "... and, at its discretion ... to out-of-State agencies ...," and added N.J.S.A. citation.

Amended by R.1992 d.514, effective December 21, 1992.
See: 24 N.J.R. 3500(a), 24 N.J.R. 4552(a).

Six month temporary certificate provisions added at (b); out-of-State requirements added at (i).

Amended by R.2011 d.245, effective October 3, 2011.
See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

In (a), substituted "Office of Licensing" for "Bureau"; rewrote (b), (c) (d), and (e); and in (i), substituted "Office of Licensing shall" for "Bureau will".

10:121A-2.3 Denying, suspending, revoking or refusing to renew a certificate of approval

(a) The Office of Licensing may deny, suspend, revoke or refuse to renew an adoption agency's certificate for good cause, including, but not limited to, the following:

1. Failure to comply with requirements of the State Adoption Law and of this chapter;

2. Violation(s) of the terms and conditions of a certificate;

3. Fraud or misrepresentation in obtaining a certificate or in the subsequent operation of the agency;

4. Refusal to furnish the Department with files, reports, records or other information as required by this chapter, or to cooperate with an inspection or investigation by the Department;

5. Refusal to permit an authorized representative of the Department to gain access to the agency during normal operating hours. An authorized representative includes:

i. A representative of the Office of Licensing;

ii. A representative of the Department for purposes of investigating allegations of child abuse or neglect;

iii. The Commissioner or his or her designee;

iv. The Commissioner of the Department or his designee; and

v. Any person specifically authorized by statute;

6. Any activity, policy or conduct that adversely affects or is deemed by the Office of Licensing to be detrimental to the families and children being served, including, but not limited to, violations of the requirements of N.J.S.A. 9:3-37 et seq., the State Adoption Law, N.J.S.A. 9:23-5 et seq., the Interstate Compact on the Placement of Children, N.J.S.A. 9:6-8.9, 8.10, 8.13 and 8.14, State child abuse laws, and this chapter;

7. Failure of an out-of-State agency to maintain a license, approval or certificate in its own state;

8. Failure to employ the necessary qualified professional staff, as specified in N.J.A.C. 10:121A-4.4;

9. Failure by the agency or director to secure and to maintain on file documentation from the Department showing compliance with criminal conviction disclosures, as specified in N.J.A.C. 10:121A-4.2(a), Criminal History Record Information background checks, as specified in N.J.A.C. 10:121A-4.5, or Child Abuse Record Information background checks, as specified in N.J.A.C. 10:121A-4.6;

10. Refusal by the director to consent to or cooperate in a Criminal History Record Information background check or Child Abuse Record Information background check for himself or herself;

11. Refusal by the director to terminate the employment of a staff member who refuses to consent to or cooperate in a Criminal History Record Information background check or Child Abuse Record Information background check;

12. Refusal by the director to terminate the employment of a staff member when an allegation of child abuse or neglect has been substantiated against the staff member;

13. Refusal by the director to terminate the employment of a staff member convicted of a crime or offense requiring disqualification, as specified in N.J.A.C. 10:121A-4.5(e);

14. A substantiated allegation of child abuse or neglect against the director; and

15. Conviction by the director for a crime or offense requiring disqualification, as specified in N.J.A.C. 10:121A-4.5(e).

(b) If an agency's certificate is suspended, the Office of Licensing shall issue or reinstate the agency's certificate once the agency achieves compliance with the requirements of the State Adoption Law and of this chapter. In such a case, the Office shall not require the agency to submit a new application for a certificate unless such reapplication is expressly made a condition of the issuance or reinstatement of the certificate.

(c) The Office of Licensing shall provide written notice to the agency before denying, suspending, revoking or refusing to renew the agency's certificate. The notice shall specify the Office's reasons for such action.

(d) If the Office of Licensing denies, revokes or refuses to renew an agency's certificate of approval, and the reason(s) for the denial, revocation or refusal have been resolved, the agency may reapply to the Office for a certificate in order to secure a new certificate prior to resuming operations.

(e) The Office of Licensing may impose conditions upon an agency's adoption services, and shall provide notice if an agency's certification will contain such conditions.

(f) Each certificate issued by the Office of Licensing to an adoption agency remains the property of the State of New Jersey. If an agency's certificate is suspended or revoked, or upon the permanent closing of the agency, the agency shall return the certificate to the Office immediately.

Amended by R.1992 d.514, effective December 21, 1992.

See: 24 N.J.R. 3500(a), 24 N.J.R. 4552(a).

Conditions added at (a)6 and 8.

Amended by R.2011 d.245, effective October 3, 2011.

See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

Rewrote the section.

10:121A-2.4 Administrative hearings

(a) When the Office of Licensing proposes to deny, suspend, revoke or refuse to renew a certificate, the Office shall afford the applicant or agency written notice of an opportunity for an administrative hearing by certified or registered mail or in-person delivery.

1. The notice shall specify the facts and legal authority which form the basis of the proposed action, and shall require an answer requesting a hearing, if desired, within 10 working days of receipt of the notice.

2. If the agency fails to request a hearing within 10 working days of receipt of the notice, the Office of Licensing shall take the proposed action immediately.

(b) The hearing shall be conducted pursuant to the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq.) and the Uniform Administrative Procedure Rules as specified in N.J.A.C. 1:1-1 et seq.

Amended by R.2011 d.245, effective October 3, 2011.

See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

Deleted former (a); recodified (b) and (c) as (a) and (b); and rewrote (a).

10:121A-2.5 Court action

(a) The Department may institute a civil action in a court of competent jurisdiction for injunctive relief to enjoin the operation of an adoption agency for good cause, including, but not limited to, the following:

1. Any imminent dangers or hazards that threaten the health and safety of children and families served by the agency;

2. Repeated violations of the requirements of the State Adoption Law or of this chapter; or

3. Opening and operating an adoption agency without a certificate or without complying with the requirements of the State Adoption Law or of this chapter.

Amended by R.2011 d.245, effective October 3, 2011.

See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

In the introductory paragraph of (a), substituted "Department" for "Division", and inserted a comma preceding and following "but not limited to".

10:121A-2.6 Complaints

(a) Whenever the Office of Licensing receives a report questioning the certification status or compliance of an adoption agency with requirements of the State Adoption Law or alleging violations of this chapter by the agency, the Office of Licensing shall ensure that the allegation is investigated to determine whether the complaint is substantiated.

(b) The Office of Licensing shall notify the complainant and the agency in writing of the results of the complaint investigation after the report of the investigation has been finalized. Such notification shall include the results of the

investigation, pursuant to the State Public Records Act (N.J.S.A. 27:1A-1 et seq.), commonly known as the State Right to Know Law and the Open Public Records Act (N.J.S.A. 47:1A-1 et seq.), except that any information not permitted to be disclosed under the Child Abuse and Neglect Law (N.J.S.A. 9:6-8 et seq.), the State Adoption Law or other law prohibiting such disclosure shall be withheld.

(c) Any individual filing a complaint may do so anonymously. If the complainant reveals his or her identity, the name of the complainant, together with a description of the complaint and its status, shall be included in the Office of Licensing's records and shall be available for public review upon completion of the investigation, pursuant to the State Public Records Law and the Open Public Records Act, except that any information not permitted to be disclosed pursuant to the Child Abuse and Neglect Law, the State Adoption Law or other law prohibiting such disclosure shall be withheld.

(d) The Office of Licensing shall consider complaints or other notifications regarding an agency's adoption practices in a state other than New Jersey in reviewing that agency's adoption practices, if such complaints have implications for the agency's service in New Jersey.

(e) No agency shall discriminate against a person because of the filing of a complaint under this section.

(f) The agency shall cooperate with the Office of Licensing's investigations whenever such complaint investigations are conducted and shall ensure that all information that is requested by the Office of Licensing is complete and accurate. The agency shall ensure that all staff members are available for interview upon the Office of Licensing's request.

Amended by R.1997 d.480, effective November 17, 1997.

See: 29 N.J.R. 3230(a), 29 N.J.R. 4857(a).

In (f), added requirement that all information provided be complete and accurate.

Amended by R.2011 d.245, effective October 3, 2011.

See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

Rewrote (a), (b), (c) (d) and (f).

10:121A-2.7 Public access to Office of Licensing records

(a) The Office of Licensing shall make its adoption agency certification files available for examination during regular business hours by any person and shall supervise any person examining its files on the adoption agency.

(b) The Office of Licensing shall make the following items in the files open to public review:

1. Applications for certificates and related materials documentation;

2. Copies of certificates;

3. Correspondence between the Office of Licensing and the agency or other parties in matters pertaining to the Office's review, inspection or certification of the agency;

4. Program evaluation, inspection and violation reports where applicable, reflecting results of Office of Licensing inspections and/or reinspections of the agency;

5. Forms and other standard documents used to collect routine data on the agency and its program as part of its record of compliance with the Manual of Requirements;

6. Enforcement letters from the Office of Licensing requiring abatement of violations of the Manual of Requirements;

7. Correspondence to the adoption agency from the Attorney General;

8. Chronological lists of events about the agency on compliance and/or enforcement matters;

9. Completed complaint investigation reports, except for child abuse and/or neglect investigations or other information restricted by the requirements of the State Adoption Law or any other State laws; and

10. Any other documents, materials, reports and/or correspondence that would normally be included as part of the public record.

(c) The Office of Licensing shall keep confidential and not part of the public record the following:

1. Records, reports, or correspondence that pertain to child abuse and/or neglect investigations involving children placed or supervised by the agency that are restricted from public access under the requirements of the Child Abuse and Neglect Law;

2. Records, reports, correspondence or forms containing names and/or any other identifying information pertaining to children, birth parent(s), or adoptive parent(s) that are restricted from public access under the sealed records requirements of the State Adoption Law;

3. Confidential information with regard to specific agency personnel;

4. Any items that deal with reports of complaint investigations that are still in progress;

5. Memoranda and other internal correspondence between and among public agencies, including internal communication between the Department and the Attorney General, except as otherwise provided by law; and

6. Other material required by law to be maintained as confidential.

(d) Office of Licensing records shall be available for public inspection at the Office during regular business hours. Copies of these records shall be available for purchase in accordance with the public records copy fee schedule set forth at N.J.S.A. 47:1A-2.

Amended by R.1992 d.514, effective December 21, 1992.
See: 24 N.J.R. 3500(a), 24 N.J.R. 4552(a).

Stylistic changes.

Administrative Correction.

See: 25 N.J.R. 2591(a).

Amended by R.2011 d.245, effective October 3, 2011.

See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

Section was "Public access to Bureau records". In (a), the introductory paragraph of (b), (b)3, (b)4 and (b)6, substituted "Office of Licensing" for "Bureau" throughout; in (b)2, deleted "temporary and regular" preceding "certificates"; in (b)3 and (b)4, deleted a comma following "inspection"; in (b)3, substituted "Office's" for "Bureau's"; in (c)5, substituted "Department" for "Division"; and in (d), substituted "Office of Licensing" for the first occurrence of "Bureau" and the first occurrence of "Office" for "Bureau office".

SUBCHAPTER 3. ADMINISTRATION

10:121A-3.1 Governing board requirements for private agencies

(a) Each private agency shall have a governing board composed of at least five voting board members that is representative of a variety of interests and points of view in the communities where the agency provides services, which shall have the authority to:

1. Set overall policy for the agency; and
2. Ensure the financial viability of the agency.

(b) The governing board shall establish policies pertaining, but not limited to:

1. Program and services to clients;
2. Personnel recruitment, selection, training and performance evaluation; and
3. Fiscal operations, including budget and resource development and fund raising.

i. The governing board shall ensure that there are sufficient funds available to cover the costs of the transfer of records to other agencies when the agency ceases operation.

ii. The governing board shall ensure that there are sufficient funds available to cover the costs for storage of records pending the actual transfer of records to other agencies when the agency ceases operation.

(c) The governing board shall delegate responsibility for day-to-day operations to an executive director or administrator and shall clearly delineate in writing the respective duties of the governing board and of the executive director or administrator.

(d) The governing board shall have written provisions guiding its composition, including provisions for representation of a variety of community interests and for time-limited terms of office for board members.

(e) The governing board shall meet at least every six months and make records of attendance and minutes of each meeting available for inspection by the Office of Licensing.

(f) The governing board shall have a written policy covering conflict of interest, which shall include the following provisions:

1. Board members shall serve without compensation or other material benefit, except that board members may be reimbursed for actual expenses, as determined by the board.

2. The agency shall not use any business that is owned or operated by a board member or in which a board member has a financial interest and shall not use the services of a board member unless the board can document that the goods or services were obtained at a competitive price.

3. Board members seeking adoption services from the agency shall either take a leave of absence from the board or serve as a non-voting member during the period(s) when such services are received. This requirement shall also apply when a person from a Board member's immediate family seeks agency adoption services.

4. The agency shall not require clients to use the consultant services of a board member or of a board member's family.

5. A board member shall not use a board position for personal benefit or for the benefit of relatives, family or friends who are seeking adoption services from the board member's agency.

6. Agency personnel and members of their families shall not serve as officers of the board or voting members of the board.

(g) The board shall oversee the transfer of clients and services and preserve records, as specified in N.J.A.C. 10:121A-3.5(g), whenever an agency terminates its adoption program.

(h) Each member of the governing board shall:

1. Be of good character, as evidenced by the agency's application for certification, as specified at N.J.A.C. 10:121A-2.1(c), and administrative records, as specified at N.J.A.C. 10:121A-3.6(g); and

2. Not engage in or permit any conduct inappropriate to the purposes of the agency.

(i) Upon receipt of an allegation that a member of the governing board may be in violation of any provision in (h) above, the Office of Licensing shall conduct a complaint investigation and provide written notification of the results, as specified in N.J.A.C. 10:121A-2.6.

Amended by R.1992 d.514, effective December 21, 1992.
See: 24 N.J.R. 3500(a), 24 N.J.R. 4552(a).

Agency staff and family members prohibited from serving on Agency Board.

Amended by R.2011 d.245, effective October 3, 2011.
See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

Rewrote the introductory paragraph of (a); in the introductory paragraph of (b), inserted a comma following "pertaining"; in (b)3,

substituted a period for a semicolon at the end; added (b)3i and (b)3ii; in (e), substituted "Office of Licensing" for "Bureau"; in (f)6, inserted "officers of the board or"; in (g), updated the N.J.A.C. reference; and added (h) and (i).

10:121A-3.2 Advisory board requirements for public agencies

(a) Each public agency shall have an advisory board or advisory council that is representative of a variety of interests and points of view in the communities where the agency provides services. The advisory board shall:

1. Keep informed of and make recommendations regarding the operational policies and practices of the agency;

2. Provide advice to the agency on matters of policy, planning, program evaluation and practice;

3. Periodically review aspects of the agency's adoption operation;

4. Meet at least annually and make records of attendance and minutes of each meeting available for inspection by the Office of Licensing; and

5. Adhere to the standards for private agency governing boards, as specified in N.J.A.C. 10:121A-3.1(d) through (i).

Amended by R.2011 d.245, effective October 3, 2011.

See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

In the introductory paragraph of (a), substituted "Each" for "Any"; in (a)4, substituted "Office of Licensing" for "Bureau"; and in (a)5, substituted "(i)" for "(f)".

10:121A-3.3 Legal responsibilities

(a) An agency shall be authorized to place children for adoption, accept relinquishment of parental rights, receive custody and/or guardianship of a child and have the right to consent to adoption. An agency that takes custody or guardianship of the child shall also be legally responsible for the child under care or guardianship until the adoption is finalized or until the child's custody and care or guardianship is transferred to another certified agency or person.

(b) When an agency transfers a child, the agency shall document the reasons for such action in the case record and shall verify that the second agency to which the child is being transferred is licensed, certified, or approved in the state where it is based.

(c) A New Jersey-certified agency may provide services for an out-of-State agency only if:

1. The New Jersey-certified agency verifies that the out-of-State agency is licensed, certified or approved in the state where the agency's principal office is located and is a non-profit agency if it places children in New Jersey for adoption or placing a child in a state other than New Jersey;

2. Both agencies execute a written cooperative agreement that has been approved by the Office of Licensing; and

3. Both agencies develop a written plan that:

i. Defines financial and social work responsibilities before, during and after the placement of each child;

ii. States that the out-of-State agency shall be financially responsible for any child placed in New Jersey until and unless the child's adoption has been finalized or the child has reached the age of majority or been removed from New Jersey. This requirement shall not affect an out-of-State agency's responsibility for providing subsidy payments to the child subsequent to finalization of the adoption or to the child's reaching the age of majority; or an out-of-State agency's voluntary agreement to assume financial responsibility after finalization of the adoption or until the child's reaching the age of majority; and

iii. States that the New Jersey-certified agency shall be financially responsible for any child placed in a state other than New Jersey until and unless the child's adoption has been finalized or the child has reached the age of majority or has been removed from that state. This requirement shall not affect the New Jersey-certified agency's responsibility for providing subsidy payments to the child subsequent to finalization of the adoption or to the child's reaching the age of majority; or the New Jersey-certified agency's voluntary agreement to assume financial responsibility after finalization of the adoption or until the child's reaching the age of majority.

(d) A New Jersey-certified agency may work with an intermediary only if the agency verifies that the intermediary does not receive money or other valuable consideration in connection with the placement of a child for adoption, pursuant to the State Adoption Law (N.J.S.A. 9:3-37).

Amended by R.1992 d.514, effective December 21, 1992.

See: 24 N.J.R. 3500(a), 24 N.J.R. 4552(a).

Non-profit status required at (c)1.

Amended by R.1995 d.431, effective August 7, 1995.

See: 27 N.J.R. 661(a), 27 N.J.R. 2922(a).

Added (d).

Amended by R.2011 d.245, effective October 3, 2011.

See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

In the introductory paragraph of (c) and in (c)3ii, substituted "out-of-State" for "out-of-state"; in (c)1, inserted "or placing a child in a state other than New Jersey"; in (c)2, substituted "Office of Licensing" for "Bureau"; in (c)3i, deleted "and" from the end; in (c)3ii, substituted "and" for a period at the end; and added (c)3iii.

Case Notes

Adoption agency is legally responsible for a child until adoption is completed or custody and care of child is transferred to another agency or person; agency action in removing child from home of prospective parents during six month supervisory period affirmed. In re: J.P., 198 N.J.Super. 166, 486 A.2d 907 (App.Div.1985).

10:121A-3.4 Information to parents and adoption applicants

(a) The agency shall provide the birth parents and adoptive applicants with a written statement or pamphlet indicating certain parental and agency rights and responsibilities, as specified in N.J.A.C. 10:121A-3.4(b).

(b) The written statement or pamphlet shall contain the following information:

1. That the agency is required to be certified by the New Jersey Department of Children and Families pursuant to the State Adoption Law (N.J.S.A. 9:3-37 et seq.);

2. That the agency is required by law to comply with all applicable requirements of this chapter.

3. That the agency shall make a current copy of the Manual of Requirements for Adoption Agencies available for review by the parents of children served by the agency;

4. That any parent who believes or suspects that the agency is in violation of any requirements of the Manual of Requirements for Adoption Agencies may report such alleged violations to the Office of Licensing;

5. That any parent may secure a copy of the Manual of Requirements for Adoption Agencies by contacting the Office of Licensing, Department of Children and Families. The Office will charge a nominal fee for the manual, in keeping with Department policy;

6. That when so requested by parents of children served by the agency, the agency shall make available for review the Office of Licensing's certification records and any Inspection or Violation Reports on the agency, except for those records prohibited from disclosure, pursuant to the State Child Abuse and Neglect Law (N.J.S.A. 9:6-8.10(a)) and to any other laws prohibiting such disclosure;

7. That any person who has reasonable cause to believe that a child being served by the agency has been or is being subjected to any form of child abuse or neglect or exploitation by any person, whether working at the agency or not, shall report such allegations to the Department of Children and Families' toll-free hotline, 1-877-NJ-ABUSE (652-2873), pursuant to the State Child Abuse and Neglect Law (N.J.S.A. 9:6-8.1 et seq.). Such reports may be made anonymously;

8. That parents may secure information about child abuse and neglect by contacting the Office of Communication and Legislation, Department of Children and Families;

9. That the agency shall cooperate with the adoptive parents and/or the attorney retained by the adoptive parents in providing all financial information needed for the finalization report pursuant to the State Adoption Law (N.J.S.A. 9:3-37 et seq.); and

10. Data on adoptions completed during the previous 12 months.

(c) When a child has been identified by the agency as having a disability or suspected disability and services have not been arranged, the agency shall inform the parent(s) of their child's right to special educational and medical services and shall refer the parent(s) to:

1. The toll-free telephone number of the New Jersey Department of Education, Regional Curriculum Services Unit (currently 1-800-322-8174 in New Jersey and (908) 390-6030 out-of-state) for a possible comprehensive evaluation and individual service plan for the child; and

2. The New Jersey Department of Health and Senior Services, Division of Local and Community Health Services, Special Child Health Services Program (currently (609) 292-5676) for a possible comprehensive medical evaluation for the child.

Amended by R.1992 d.514, effective December 21, 1992.
See: 24 N.J.R. 3500(a), 24 N.J.R. 4552(a).

Stylistic changes.

Administrative Correction.

See: 25 N.J.R. 2883(b).

Amended by R.1997 d.480, effective November 17, 1997.

See: 29 N.J.R. 3230(a), 29 N.J.R. 4857(a).

Added (a)10.

Amended by R.2011 d.245, effective October 3, 2011.

See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

In (b)1, substituted "New Jersey Department of Children and Families" for "Bureau of Licensing of the New Jersey Division of Youth and Family Services"; in (b)4, substituted "parent who believes or suspects" for "parents who believe or suspect" and "Office" for "Bureau"; rewrote (b)5, (b)7 and (b)8; in (b)6, substituted "Office of Licensing's" for "Bureau's"; in the introductory paragraph of (c), substituted "disability" for "handicapping condition" twice; and in (c)2, inserted "and Senior Services".

10:121A-3.5 Reporting requirements

(a) The agency shall orally notify the Department of Children and Families' toll-free hotline, 1-877-NJ-ABUSE (652-2873), immediately whenever there is any allegation received by the agency or other reasonable cause to believe that a child under the supervision or care of the agency has been or is being abused or neglected by any person, pursuant to the State Child Abuse and Neglect Law (N.J.S.A. 9:6-8.9, 8.10, 8.13 and 8.14).

1. The agency shall notify the Office of Licensing of these allegations, as well as of any other allegations that were made by other parties and came to the agency's attention.

2. The Department shall make copies of the child abuse law and information about the law available, upon request, through its Office of Communication and Legislation, PO Box 717, Trenton, New Jersey 08625-0717.

(b) The agency shall notify the Office of Licensing orally of any of the following changes or events within 24 hours after the agency learns of their occurrence and shall submit written notification to the Office within five working days:

1. Unanticipated permanent or temporary closing of the agency or any part thereof;

2. Any criminal convictions of any staff member involved in the agency's adoption program excluding minor traffic violations;

3. Legal action against the agency or a staff member which involves the operation of the agency or any child under the care of the agency, excluding any legal actions unrelated to agency business;

4. Damage to agency facilities which substantially disrupts the program or the agency's accessibility to clients; or

5. Knowledge of any child placement by any other party which the agency has reason to believe is not permitted by law or by this chapter.

(c) The agency shall notify the Office of Licensing in writing at least 30 calendar days prior to any of the following proposed changes and events, if known:

1. Any plans to reorganize the adoption program that would involve changes in target populations, geographic area, services or eligibility, and the reasons for the changes;

2. Any change in the name, location, executive director, administrator or social work supervisor of the agency; or

3. Any change in the majority of the membership of the governing board within a calendar year.

(d) The agency shall notify the Office of Licensing in writing 90 calendar days prior to the date when the agency expects to suspend or cease operations of the agency's adoption program.

(e) The agency shall notify both the appropriate county prosecutor and the Office of Licensing within three working days of any adoption activity that involves an intermediary that allegedly violates N.J.S.A. 9:3-37 et seq., the State Adoption Law.

(f) The agency shall notify the Office of Licensing in writing of any adoption activity specified in (e) above within five working days of the agency's notification to the county prosecutor.

(g) The agency shall make the following arrangements once a decision to cease its adoption program has been made:

1. Transfer the care and custody of any children in the supervision of the agency to another agency certified by the Department on or before the anticipated date of closing;

2. Transfer responsibility for any other clients, such as adoptive and/or birth parents in the adoption program to another agency certified by the Department on or before the anticipated date of closing;

3. Notify the Office of Licensing of the successor agency within 30 calendar days of closing;

4. Transfer all closed adoption records to a successor private agency certified by the Department. The closing agency shall ensure that such transfers of closed adoption records are implemented within one year after the agency's adoption program ceases to operate;

5. Send to all current adoption clients, including birth parents, adoptive applicants and adoptive parents as well as adult adoptees and relevant agencies with whom the agency is currently working, a letter explaining its decision to cease operation of its adoption program; and

6. Return its certificate to the Office of Licensing.

Amended by R.1995 d.431, effective August 7, 1995.

See: 27 N.J.R. 661(a), 27 N.J.R. 2922(a).

Added (e) and (f) and recodified existing (e) as (g).

Amended by R.1997 d.480, effective November 17, 1997.

See: 29 N.J.R. 3230(a), 29 N.J.R. 4857(a).

In (e), provided for notification to the Bureau of Licensing.

Amended by R.2011 d.245, effective October 3, 2011.

See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

Rewrote the section.

10:121A-3.6 Agency records

(a) The agency shall ensure that the following general requirements are met:

1. The agency shall keep all records on file at the agency but may store files that are not currently active in a secure facility, with confidential files under lock and key, provided that the records can be accessed in a reasonable amount of time, if needed.

2. The agency shall make all records available for inspection by authorized representatives, as specified in N.J.A.C. 10:121A-2.3(a)5.

3. The agency shall ensure that all entries in the child, adoptive family, birth family and personnel records indicate the name of the individual making the entry, the date of the entry, and that all entries are signed by that individual.

4. The agency shall maintain the confidentiality of all information in all client case records, including those of the child, birth parents, foster parents, adoptive parents, adult adoptees and all other persons residing in the adoptive parents' home, except by court order, as specified in this chapter or by written consent of the specific party.

i. Staff members or persons associated with or working in cooperation with the agency shall not disclose or knowingly permit the disclosure of any identifying information concerning the child, birth parents, foster parents, adoptive parents or adult adoptees to any unauthorized person(s). Authorized persons are:

(1) Department representatives involved in child abuse and/or neglect investigations, or as otherwise authorized by statute;

(2) Office of Licensing representatives or designees engaged in review activities related to certifications;

(3) Staff members of other agencies acting within the scope of their employment;

(4) Representatives of adoption agencies or the social welfare or law enforcement agencies exchanging information regarding individuals in the care or legal custody of one of the agencies; and

(5) Persons named in court orders for this purpose.

ii. The agency may disclose identifying information to bona fide researchers who have received permission from the Commissioner or his or her designee, subject to any restrictions and/or limitations set by the Commissioner or designee, and who agree to maintain the confidentiality of the child, birth parents, foster parents, adoptive parents and/or adult adoptees.

iii. The agency shall disclose or permit the disclosure of non-identifying information to the child, adult adoptee, birth parents, foster parents and adoptive parents after verifying the identity of the person making the request.

iv. An agency shall supply full information as permitted by these rules to any party involved in an adoption upon request.

v. The agency shall not verify or give to the adoptive parents the names of the birth parents without the written permission of the birth parents, even though the adoptive parents may have learned of the identity of the birth parents before or after the plan for adoption was made.

(b) The agency shall develop, maintain and make available to clients and to the public, upon their request, a written description of its policies and procedures for the following:

1. Eligibility for and provision of services;

2. Contents and maintenance of case records, including confidentiality and access;

3. Client grievances;

4. Rights and responsibilities of the agency and of clients for providing information, access to records, providing services, and payment of fees;

5. Relationship(s) with the courts pertaining to termination of parental rights, custody and guardianship; and

6. Relationship(s) with referring agencies.

(c) The agency shall establish and maintain statistical information on adoption services.

(d) An agency shall maintain case records for each child served and for his or her birth family for 99 years. Certified agencies that work with referring agencies or intermediaries shall make efforts to obtain background information for birth family and child records. These records shall include:

1. Identifying information on the child, including: name according to birth certificate, aliases if any, birthdate, birthplace, sex, race, social security number, national origin, religion, height, weight, color of hair and eyes, identifying marks or any other significant physical characteristics;

2. The name, address, telephone number, birthdate, birthplace, social security number, marital status, race, national origin, religion, and any social, psychological, educational or vocational background information on the birth parent(s), including the putative father or legal guardian(s), if relevant;

3. Name, address, telephone number of a birth family member, or relative to contact in case of emergency;

4. Date of placement and finalization of the adoption;

5. The names, birthdates, and locations of the child's siblings, if any. If the child has siblings, the record shall also include the reason(s) that the sibling(s) were not placed in the same adoptive home;

6. Social, psychological, developmental and educational circumstances including school reports and medical history of the child and copies of any professional recommendations, evaluations or treatment, including the Adoption Medical Information Form pursuant to N.J.S.A. 9:3-41.1(b), or any other required form issued by the Office of Licensing, and a complete medical history of the birth family;

7. Legal documents pertinent to legal custody and guardianship, including birth records, court reports, proof of voluntary relinquishment or termination of parental rights or their equivalent, documentation of custody or guardianship transferred from one certified agency to another or from an official of the United States or any foreign country with authority to place such child for adoption;

8. All written agreements with parents, guardians, legal custodians, or cooperating agencies including but not limited to consent for foster placement and authorization for necessary medical or surgical care and service and financial agreements;

9. Summary reports of social services provided or offered for the child and birth family, including possible alternatives to adoption, pre- and/or post-natal care for the

birth mother, temporary care for the birth mother and/or child, reasons for adoption as the plan of choice and birth parent preferences, if any, regarding characteristics of the adoptive family;

10. Summary of how any child placed for adoption has been prepared for the adoption, including, for children 10 years of age or older, a full description of the child's involvement in the process of adoption planning, and preference regarding characteristics of the adoptive family or documentation of the reason(s) for not consulting the child;

11. Record of the birth family's contact with the agency after adoptive placement, including updated addresses and telephone numbers;

12. The specific plan for transporting the child to the adoptive home, if appropriate;

13. All records or documentation pertaining to contacts between the agency and the birth parent, birth family or their legal representative, as specified in N.J.A.C. 10:121A-5.4(a);

14. A signed agreement by the applicant(s) to notify the agency at the time the family is matched with a birth mother for possible placement of her child or when a child is received in the home for adoption through a source other than a certified agency, so that the supervision of the child can begin. This supervision shall be done by the same agency that conducted the home study. However, at the request of the adoptive applicant(s), the case may be transferred to another certified agency, provided both agencies agree to the transfer; and

15. A signed agreement by the applicant(s) to provide the agency with an itemized statement of all costs paid and unpaid, and copies of receipts for all costs paid by the applicant(s) in connection with the adoption, including any adoption-related expenses paid prior to agency involvement.

(e) The agency shall maintain records of home studies of adoptive applicants, who have had a child placed for adoption, for 99 years. These records shall include:

1. Information about the prospective adoptive parent(s) and family, including: name, address, sex, race, birthdate, religion, nationality and citizenship, social security number, educational background, occupation and income, marital status and year of marriage and divorce, if applicable;

2. Information on other members of the immediate family, their names, sex, birthdates, relationship, and addresses, if different from above;

3. Copies of signed service plans and financial agreements;

4. Characteristics of the child, including: age range, sex, social, psychological, physical, developmental and

educational circumstances acceptable to the family, including any specific limits to the extent of special conditions acceptable to the adoptive family;

5. Summary documents of the adoption home study of the family which shall be signed and dated by both the social worker who conducted the study and social work supervisor, including any autobiographical or other self-assessment material provided by the family, the basis for the decision to accept or reject the family or to impose any qualifying conditions, an indication that the decision was made jointly by the social worker and social work supervisor, and a record that the family was informed in writing of the decision within 30 calendar days of the last contact with the family;

6. All records or documentation pertaining to contacts between the agency and the adoptive parent(s) or their legal representative, as specified in N.J.A.C. 10:121A-5.6(a);

7. All references, medical reports, and any background checks, including police and fingerprinting checks, and any other verifications or correspondence used by the agency for the study and evaluation of the adoptive family; and

8. A record of each child being placed in the adoptive home, including the full name, date of placement, supervisory reports covering the child's and family's adjustment, summary report of placement and recommendation, date and place of finalization, record of any contact with the agency after finalization, including updated addresses and telephone numbers.

(f) The agency shall maintain on file records, as specified in N.J.A.C. 10:121A-5.5(b), for each foster family used by the agency in support of the agency's adoption service.

1. These records shall be maintained for the following:

- i. Placements that were made before termination of the legal parents' rights; and
- ii. Temporary care between intended permanent adoptive placements.

2. Such records shall include documentation that the requirements specified in N.J.A.C. 10:121A-5.5(b) and (c) were met. When a foster family is also the adoptive family, the adoptive family records shall include the content specified in N.J.A.C. 10:121A-5.5(b).

(g) The agency shall maintain the following administrative records in its files:

1. Current copies of all written materials required for certification, as specified in N.J.A.C. 10:121A-2.1(c) and (d). When there are changes or modifications in the agency's policies and procedures, the written materials shall reflect such changes;

2. A current copy of the Manual of Requirements for Adoption Agencies;

3. Copies of other licenses, certificates, accreditations or evaluations of agency operations, program, and facilities;

4. Copies of board meeting minutes; and

5. Copies of general and comprehensive insurance coverage.

(h) An agency shall maintain the following financial records:

1. An annual budget indicating projected revenues and expenses for its adoption program;

2. Policies and procedures governing fees for service, along with fee ranges, if any; and

3. Actual fees paid by clients to or through the agency in connection with adoption services.

(i) The agency shall maintain personnel records on all agency personnel, including paid staff members employed by the agency, paid consultants who provide contracted services and volunteers and students who have direct contact with clients.

1. The personnel record shall include the following information for each staff member:

- i. Name, address, and telephone number;
- ii. Resume, or application form, including qualifications, work experience and at least two references;
- iii. A listing of any criminal convictions, excluding minor traffic violations;
- iv. Annual evaluations of job performance;
- v. A description of any adoption-related training/development received;
- vi. Dates of employment and separation and reason(s) for leaving; and
- vii. Description or statement of amount of time the employee works.

2. The agency shall maintain a personnel record for at least three years following the staff member's separation from the agency.

3. State-operated agencies shall follow policies and guidelines established by the Department for personnel information and information regarding paid consultants in lieu of the information specified in (i)1 and 2 above.

Amended by R.1992 d.514, effective December 21, 1992.

See: 24 N.J.R. 3500(a), 24 N.J.R. 4552(a).

All entries to be signed and dated.

Amended by R.1995 d.431, effective August 7, 1995.

See: 27 N.J.R. 661(a), 27 N.J.R. 2922(a).

Amended (a)4 and (c); added (d)12 through (d)15 regarding maintenance of case records; deleted (e) and recodified (f) through (j) as (e) through (i).

Amended by R.1997 d.480, effective November 17, 1997.

See: 29 N.J.R. 3230(a), 29 N.J.R. 4857(a).

In (d)14, made mandatory supervision by the same agency that conducted the home study.

Amended by R.2011 d.245, effective October 3, 2011.

See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

Rewrote the section.

10:121A-3.7 Office facilities

(a) The agency shall provide space that affords privacy for conducting interviews at its office facilities.

(b) The agency shall provide equipment storage space and furnishings necessary to implement the activities of the adoption program at its office facilities.

(c) The agency shall have the telephone number for the agency office listed in the public telephone directory.

(d) An agency that operates in a private home shall provide documentation that the local municipality permits such business use in the home.

Amended by R.2011 d.245, effective October 3, 2011.

See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

Rewrote (a) and (b); in (c), substituted "the telephone number for the agency office" for "a telephone whose number; and added (d).

Case Notes

Good cause requirement for adoptive adult to obtain information regarding natural parents. *Backes v. Catholic Family & Community Services*, 210 N.J. Super. 186, 509 A.2d 283 (Ch.Div.1984).

SUBCHAPTER 4. PERSONNEL

10:121A-4.1 General requirements

(a) An agency shall have one social worker for every 35 children under its care or supervision.

(b) An agency shall have at least three full-time staff members or their equivalents in part-time staff members, as specified in N.J.A.C. 10:121A-4.4(a) through (c). Staff members as specified at N.J.A.C. 10:121A-4.4(a) and (b) and shall be available at the agency during regular business hours.

1. An agency shall have one executive director or administrator.

2. The executive director or administrator shall not serve as the social work supervisor.

(c) The executive director or administrator and every staff member shall:

1. Be of good character, as evidenced by the agency's application for certification, as specified in N.J.A.C. 10:121A-2.1(c), and personnel records, as specified in N.J.A.C. 10:121A-3.6(i);

2. Be in sufficient physical, mental and emotional health to perform his or her job duties satisfactorily;

3. Possess skills, attributes and characteristics conducive to and suitable for operating an agency and dealing with children, birth parents and adoptive applicants; and

4. Not engage in or permit any conduct inappropriate to the purposes of the agency.

(d) Upon receipt of an allegation that the executive director, administrator or a staff member may be in violation of any provision in (c) above, the Office of Licensing shall conduct a complaint investigation and provide written notification of the results to the agency, as specified in N.J.A.C. 10:121A-2.6.

Amended by R.1992 d.514, effective December 21, 1992.

See: 24 N.J.R. 3500(a), 24 N.J.R. 4552(a).

Staff requirements increased to three full-time or equivalent; director prohibited from serving as social work supervisor.

Amended by R.2011 d.245, effective October 3, 2011.

See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

Rewrote (b); and added (c) and (d).

10:121A-4.2 Personnel policies

(a) The agency shall require all applicants for employment to disclose criminal convictions in writing. Evidence of conviction of a crime, in itself, shall not automatically preclude an individual from working in the agency and shall not automatically result in the removal or termination of a director or staff member from his or her position or job. Such determinations shall be made on a case-by-case basis, in keeping with the provisions of the State Rehabilitated Convicted Offenders Act (N.J.S.A. 2A:168A-1 et seq.). The agency shall maintain evidence of compliance with requirements for criminal conviction disclosures on file.

(b) The agency shall develop and maintain on file current written personnel policies and make them available to all staff members. The personnel policies shall be reviewed annually and updated every three years by the agency. The personnel policies shall include:

1. Criteria and procedures for the assignment, supervision, annual performance evaluation, promotion, suspension or dismissal of a staff member;

2. Job specifications outlining the qualifications, duties and accountability for every category of staff member;

3. Procedures for handling staff member complaints or grievances; and

4. Provisions for responding to any staff member misconduct that constitutes criminal, unethical or unprofessional behavior, including sanctions that may be taken by the agency when a staff member fails to notify the agency of a criminal conviction or engages in conduct inappropriate to the purposes of the agency.

(c) The agency shall ensure that any staff member or consultant that utilizes the title or designation of social worker, licensed clinical social worker, licensed social worker, certified social worker, medical social worker, social

work technician or any other title or designation that includes the words social worker or social work, or any abbreviations such as SW, LCSW, LSW, CSW or SWT is certified or licensed pursuant to N.J.S.A. 45:15BB-1 et seq., the Social Workers Licensing Act of 1991, unless the individual is exempt from certification or licensure as specified in N.J.S.A. 45:15BB-5.

(d) All new in-State agencies prior to receiving a certificate shall ensure that social work staff and social work supervisors are certified or licensed pursuant to (c) above.

(e) All out-of-State agencies shall ensure that:

1. Social work staff and social work supervisors are certified or licensed pursuant to that state's laws or requirements, if applicable; and
2. Social work staff and social work supervisors who provide social work services in New Jersey are certified or licensed pursuant to (c) above.

Amended by R.1992 d.514, effective December 21, 1992.

See: 24 N.J.R. 3500(a), 24 N.J.R. 4552(a).

Applicable in-State or out-of-State social work licensing required.

Amended by R.1995 d.431, effective August 7, 1995.

See: 27 N.J.R. 661(a), 27 N.J.R. 2922(a).

In (e) added exceptions to licensing requirements of (c) and (d) and redesignated former (e) and (f) as (f) and (g).

Amended by R.2011 d.245, effective October 3, 2011.

See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

Rewrote the section.

10:121A-4.3 Staff development

(a) The agency shall provide orientation for all new staff members regarding the general administrative, personnel, fiscal and program policies, procedures, and practices of the agency.

(b) The agency shall prepare and maintain on file a written staff development program plan. The plan shall specify major content areas to be covered and agency policy regarding requirements for staff development.

1. The agency shall provide at least eight hours of adoption-related training per year to each professional staff member.
2. The agency shall make staff members aware of specific requirements of the State Adoption Law and of this chapter that affect the performance of their duties.
3. The agency shall make staff members aware of the Child Abuse and Neglect Law and shall provide for the training of its staff members in reporting procedures under this law.

10:121A-4.4 Staff qualifications and duties

(a) The executive director or administrator shall work for the agency on a full-time basis (at least 30 hours per week) and have the qualifications and responsibilities as specified below.

1. The executive director or administrator of the agency shall:

- i. Have a bachelor's degree from an accredited college or university and three years of professional experience in the human services field, two years of which shall have been in a supervisory or administrative position; or
- ii. Have a master's or doctorate degree from an accredited graduate school in business or public administration or in one of the areas of study in the human services field and two years of professional experience in the human services field; or
- iii. For public agencies, meet the New Jersey State Department of Personnel requirements for the title used for the function of executive director or administrator of the agency.

2. The executive director or administrator shall be responsible for:

- i. Developing, implementing and maintaining policy and procedures for program and fiscal operation;
- ii. Ensuring that the agency achieves and maintains compliance with the requirements of this chapter;
- iii. Employing, evaluating and discharging staff members, in accordance with the agency's established personnel policies as specified in N.J.A.C. 10:121A-4.2;
- iv. Establishing and supervising working relationships with other social service agencies within the community; and
- v. Maintaining current social services records and statistics, as specified in N.J.A.C. 10:121A-3.6(c).

(b) The social work supervisor shall work for the agency on a full-time basis (at least 30 hours per week) and have the qualifications and responsibilities as specified below.

1. A social work supervisor shall:

- i. Meet the requirements for a licensed clinical social worker or a licensed social worker as specified in N.J.A.C. 13:44G-4.1 and 4.2 and have a minimum of two years of professional experience in services to children and families, one year of which shall be in adoption services; or
- ii. Meet the requirements for a certified social worker as specified in N.J.A.C. 13:44G-4.3, and have a minimum of four years of professional experience in services to children and families, two years of which shall be in adoption services. Under this provision, the social work supervisor shall not supervise licensed clinical social workers or licensed social workers; or
- iii. For public agencies, meet the New Jersey State Department of Personnel requirements for the title.

2. The social work supervisor shall be responsible for:
 - i. The supervision, management, training, and evaluation of all social work staff members, students, and consultants;
 - ii. The supervision of volunteers whose work involves direct contact with clients;
 - iii. The approval of all decisions regarding family and child eligibility for service, maternity and child care, transportation and placement arrangements, finalization, and any other changes in the child's legal status; and
 - iv. The implementation of the agency's adoption program(s) and services, and recommendations regarding changes to the program.

(c) A social worker and/or a staff member who provides social work services shall work for the agency on a full-time basis (at least 30 hours per week) and have the qualifications and responsibilities as specified below. The agency may choose to utilize part-time staff members in lieu of one full-time staff member, provided that these staff members have the qualifications and responsibilities as specified in (c)1 and 2 below.

1. Each social worker and each staff member who provides social work services shall either:
 - i. Meet the requirements for a licensed clinical social worker, a licensed social worker or a certified social worker as specified in N.J.A.C. 13:44G-4.1, 4.2 and 4.3 and have a minimum of one year of professional experience in the human services field;
 - ii. Meet the criteria for exemption from social worker certification or licensure as specified in N.J.S.A. 45:15BB-5; or
 - iii. For public agencies, meet the New Jersey State Department of Personnel requirements for the title.
2. A social worker and/or a staff member who provides social work services shall be responsible for:
 - i. The maintenance of up-to-date case records;
 - ii. The preparation of home studies for adoptive applicants;
 - iii. The preparation of other case reports as required by the courts, cooperating agencies, or this chapter; and
 - iv. Direct service provision of any pre-placement, placement, post-placement, or post-adoption services, delivered to children, birth parents, foster parents, adult adoptees, or related parties within the scope of the agency's approved program.

(d) An agency shall arrange for staff members and/or consultants to provide medical, legal, psychiatric, psychological

or other professional services to birth parents, children and adoptive parents whose home studies have been approved by the agency.

1. All staff members and/or consultants shall meet the licensing, certification, or practice requirements established for their respective professions in the states and/or country in which they practice.

2. The agency shall not require clients to use medical, legal, psychological, psychiatric or other consultants used by the agency. The agency may use consultants and/or persons selected by agency clients.

(e) The agency shall employ secretarial and other support staff to perform reception, clerical, recordkeeping, bookkeeping and related services necessary to comply with the requirements of this chapter.

(f) Agencies that utilize students for field placements shall have a written plan for using their services.

1. This plan shall describe what services the student is responsible for and what arrangement the agency has for supervising the students.

2. The agency shall give a copy of this plan to each student and his or her school and to the supervising staff members.

(g) An agency may utilize the services of volunteers provided that the agency:

1. Ensures that any volunteer who has direct contact with clients works under the supervision of a professional staff member and does not provide counseling services or make social work decisions unless the volunteer has the qualifications of a social worker, as specified in (c) above.

2. Prepares and maintains on file a written plan and job description for each category of volunteer who has direct contact with clients; and

3. Provides orientation and training to volunteers, as specified in N.J.A.C. 10:121A-4.3(a).

Amended by R.1992 d.514, effective December 21, 1992.

See: 24 N.J.R. 3500(a), 24 N.J.R. 4552(a).

Hours of work and experience requirements added at (a) through (c).

Amended by R.1995 d.431, effective August 7, 1995.

See: 27 N.J.R. 661(a), 27 N.J.R. 2922(a).

Revised the educational and professional experience requirements for social work supervisors, social workers and staff members providing social work services.

Amended by R.1997 d.480, effective November 17, 1997.

See: 29 N.J.R. 3230(a), 29 N.J.R. 4857(a).

In (d)1, inserted "and/or country".

Amended by R.2011 d.245, effective October 3, 2011.

See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

In the introductory paragraph of (c), inserted the second occurrence of "members"; rewrote the introductory paragraph of (c)1; rewrote (c)1ii; deleted former (c)1iii; and recodified former (c)1iv as (c)1iii.

10:121A-4.5 Criminal History Record Information (CHRI) background checks

(a) As a condition of securing and maintaining a certificate, the agency shall ensure that a State and Federal CHRI fingerprint background check, in keeping with P.L. 2008, c. 114, is completed for the director and each staff member.

1. If the director refuses to consent to or cooperate in a CHRI background check, the Department shall deny, suspend, revoke or refuse to renew the certificate, as applicable. The agency may appeal the denial, suspension, revocation or refusal to renew, as specified in N.J.A.C. 10:121A-2.3.

2. If a staff member refuses to consent to or cooperate in a CHRI background check, the agency shall immediately terminate the staff member's employment at the agency.

(b) If any person identified in (a) above has a record of criminal conviction, the Department of Children and Families shall review the record with respect to the type and date of the criminal offense and make a determination as to the suitability of the person to administer or work at the agency.

(c) A person shall be disqualified from administering or working at the agency if that person ever committed a crime that resulted in a conviction for:

1. A crime against a child, including endangering the welfare of a child and child pornography pursuant to N.J.S.A. 2C:24-4;

2. Abuse, abandonment or neglect of a child pursuant to N.J.S.A. 9:6-3;

3. Endangering the welfare of an incompetent person pursuant to N.J.S.A. 2C:24-7;

4. Sexual assault, criminal sexual contact or lewdness pursuant to N.J.S.A. 2C:14-2 through 4;

5. Murder pursuant to N.J.S.A. 2C:11-3 or manslaughter pursuant to N.J.S.A. 2C:11-4;

6. Stalking pursuant to section 1 of P.L. 1992, c. 209 (N.J.S.A. 2C:12-10);

7. Kidnapping and related offenses including criminal restraint, false imprisonment, interference with custody, criminal coercion or enticing a child into a motor vehicle, structure or isolated area pursuant to N.J.S.A. 2C:13-1 through 5 and section 1 of P.L. 1993, c. 291 (N.J.S.A. 2C:13-6);

8. Arson pursuant to N.J.S.A. 2C:17-1, or causing or risking widespread injury or damage, which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:17-2;

9. Aggravated assault, which would constitute a crime of the second or third degree pursuant to N.J.S.A. 2C:12-1b;

10. Robbery, which would constitute a crime of the first degree pursuant to N.J.S.A. 2C:15-1;

11. Burglary, which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:18-2;

12. Domestic violence pursuant to P.L. 1991, c. 261 (N.J.S.A. 2C:25-17 et seq.);

13. Terroristic threats pursuant to N.J.S.A. 2C:12-3;

14. An attempt or conspiracy to commit any of the crimes or offenses listed in (c)1 through 13 above; or

15. In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or offenses described in (c)1 through 14 above.

(d) As an exception to (c) above, the Department may approve the employment at, or administration of, an agency by an individual convicted of a crime specified in (c) above, if all of the following conditions are met:

1. The Department determines that the crime does not relate adversely to the position the individual is employed in pursuant to the provisions of P.L. 1968, c. 282 (N.J.S.A. 2A:168A-1 et seq.);

2. The conviction is not related to a crime committed against a child, as specified in (c) above;

3. The agency documents that the individual's employment or administration of the agency does not create a risk to the safety or well-being of children due to the nature and requirements of the position. As necessary, the agency shall identify restrictions regarding the individual's contact with, care or supervision of children;

4. The agency documents that the individual is uniquely qualified for the position due to specific skills, qualifications, characteristics or prior employment experiences; and

5. The Department determines that the individual has affirmatively demonstrated rehabilitation, pursuant to the factors specified in (e) below.

(e) For crimes and offenses other than those cited in (c) above, an individual may be eligible to administer or work at the agency if the individual has affirmatively demonstrated to the Department clear and convincing evidence of rehabilitation.

1. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

i. The nature and responsibility of the position at the agency that the convicted individual would hold, has held or currently holds, as the case may be;

ii. The nature and seriousness of the offense;

- iii. The circumstances under which the offense occurred;
- iv. The date of the offense;
- v. The age of the individual when the offense was committed;
- vi. Whether the offense was an isolated or repeated incident;
- vii. Any social conditions that may have contributed to the offense; and
- viii. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs or the recommendation of those who have had the individual under their supervision.

2. Upon receipt of documentation submitted by the agency, indicating why the individual at issue should not be precluded from administering, working or residing at the agency, the Department, after assessing the facts on a case-by-case basis, shall make the final determination regarding the individual's rehabilitation, in keeping with the provisions of the State Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq.

3. The Department shall make the final determination regarding the suitability of the director of an agency with a criminal conviction other than those cited in (c) above.

4. For a current or prospective staff member with a criminal conviction other than those cited in (c) above, the director of the agency or the agency's board of directors shall make a determination regarding the individual's suitability upon the Department's determination that the individual has affirmatively demonstrated rehabilitation.

(f) If the director of an agency has knowledge that any individual specified in (a) above has criminal charges pending against the individual, the director shall promptly notify the Department to determine whether or not any action concerning the individual is necessary in order to ensure the safety of the children.

(g) If the Department is notified that any individual specified in (a) above is convicted of a crime or offense after the CHRI has been completed, the Department shall make a determination whether to suspend or revoke the certificate or require the agency to terminate the individual's employment or service, as applicable.

(h) Upon completion of the CHRI for an individual specified in (a) above, the Department shall notify the individual, and the agency as applicable, in writing, of the individual's qualification or disqualification for employment or service under section 4 or 5 of P.L. 2008, c. 114 (N.J.S.A. 9:3-40.5 and 9:3-40.6).

1. If the individual is disqualified, the convictions that constitute the basis for the disqualification shall be identified in the written notice to the individual.

2. The individual shall have 14 days from the date of the written notice of disqualification to challenge the accuracy of the CHRI.

3. If no challenge is filed or if the determination of the accuracy of the CHRI upholds the disqualification, the Department shall notify the agency that the individual has been disqualified.

4. The agency shall immediately terminate the disqualified individual's employment at the agency.

5. If the disqualified individual is an agency director, the Department shall deny, suspend, revoke or refuse to renew the certificate, as applicable.

(i) An agency that has received an employment application from an individual, or currently employs a director or staff member, shall be immune from liability for acting upon or disclosing information about the disqualification or termination of that individual to another agency seeking to employ that individual, if the agency has:

1. Received notice from the Department or the agency's board of directors, as applicable, that the applicant, director or staff member has been determined by the Department or the board of directors to be disqualified from employment or service at an agency pursuant to P.L. 1968, c. 282 (N.J.S.A. 2A:168A-1 et seq.); or

2. Terminated the employment of a staff member because the individual was disqualified from employment or service at the agency on the basis of a conviction of a crime pursuant to P.L. 1968, c. 282 (N.J.S.A. 2A:168A-1 et seq.) after commencing employment or service at the agency.

(j) An agency that acts upon or discloses information pursuant to (i) above shall be presumed to be acting in good faith unless it is shown by clear and convincing evidence that the agency acted with actual malice toward the individual who is the subject of the information.

New Rule, R.2011 d.245, effective October 3, 2011.
See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

10:121A-4.6 Child Abuse Record Information (CARI) background checks

(a) As a condition of securing and maintaining a certificate, the agency shall provide written consent to the Department from the director and each staff member for a CARI background check to be conducted.

1. If a director refuses to consent to or cooperate in a CARI background check, the Department shall deny, suspend, revoke or refuse to renew the certificate, as applicable. The agency may appeal the denial, suspension,

revocation or refusal to renew, as specified in N.J.A.C. 10:121A-2.3.

2. If a staff member refuses to consent to or cooperate in a CARI background check, the agency shall immediately terminate the staff member's employment at the agency.

(b) Upon receipt of written consent from an individual specified in (a) above, the Department shall conduct a search of its records to determine if an allegation of child abuse or neglect has been substantiated, pursuant to section 4 of P.L. 1971, c. 437 (N.J.S.A. 9:6-8.11), against the individual.

1. The Department shall consider incidents of child abuse and neglect that were substantiated on or after June 29, 1995, to ensure that the perpetrator has had an opportunity to appeal a substantiated finding of child abuse or neglect.

2. The Department may consider incidents substantiated prior to June 29, 1995, if the Department, in its judgment, determines that the perpetrator poses a risk of harm to children in a home. In cases involving incidents substantiated prior to June 29, 1995, in which the Department determines that the individual is disqualified, the Department shall offer the perpetrator an opportunity for a hearing to contest the substantiation.

(c) If the Department determines that an allegation of child abuse or neglect has been substantiated against an individual specified in (a) above, the agency shall immediately terminate the individual's employment at the agency.

(d) If the Department determines that an allegation of child abuse or neglect has been substantiated against a director, the Department shall also deny, suspend, revoke or refuse to renew the certificate of approval, as applicable.

1. The agency may appeal the denial, suspension, revocation or refusal to renew, as specified in N.J.A.C. 10:121A-2.3.

2. If the incident was substantiated prior to June 29, 1995, the Department shall notify the individual in writing that the individual may request a hearing to contest the substantiation.

(e) If the Department determines that an allegation of child abuse or neglect has been substantiated against a staff member, the agency shall notify the staff member in writing that the termination of employment is based on a substantiated allegation of child abuse or neglect. If the incident was substantiated prior to June 29, 1995, the agency shall notify the staff member in writing that the staff member may request a hearing to contest the substantiation.

New Rule, R.2011 d.245, effective October 3, 2011.
See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

10:121A-4.7 Background check procedures for New Jersey agencies

(a) Prior to the opening of a new agency located in New Jersey, the agency shall ensure that a request for a Criminal History Record Information (CHRI) background check, as specified in N.J.A.C. 10:121A-4.5, and a Child Abuse Record Information (CARI) background check, as specified in N.J.A.C. 10:121A-4.6, is submitted for each person identified in N.J.A.C. 10:121A-4.5(a) and 4.6(a).

(b) Prior to the first renewal of a certificate on or after June 13, 2009 for an existing agency located in New Jersey, the agency shall ensure that a request for a CHRI background check, as specified in N.J.A.C. 10:121A-4.5, is submitted for the director and each staff member.

(c) Prior to each renewal of a certificate on or after June 13, 2009, for an existing agency located in New Jersey, the agency shall ensure that a request for a CARI background check, as specified in N.J.A.C. 10:121A-4.6, is submitted for the director and each staff member.

(d) Within two weeks after a new staff member begins employment at an agency located in New Jersey, the agency shall ensure that a request for a CHRI background check, as specified in N.J.A.C. 10:121A-4.5, and a CARI background check, as specified in N.J.A.C. 10:121A-4.6, is submitted for the individual.

(e) An individual shall not be left alone as the only adult accompanying or caring for a child until documentation from the Department showing compliance with a CHRI check and CARI check for the individual has been received by the agency.

New Rule, R.2011 d.245, effective October 3, 2011.
See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

10:121A-4.8 Background check procedures for out-of-State agencies

(a) For an agency located outside New Jersey, the agency shall ensure that the director and each applicant or staff member meet all applicable laws and regulations in that state governing criminal history record background checks and child abuse record information checks that may be required as a condition of employment.

(b) In the event that criminal history record background checks and child abuse record information checks are not mandated in that state, the agency shall require that the director and each applicant, staff member make a disclosure of any criminal conviction. The results of the disclosure shall be made available to the Department, so that the Department can determine the suitability of the individual for employment or service at the agency.

(c) For an agency located outside of New Jersey that hires or contracts with persons providing adoption services in New Jersey, the agency shall meet the CHRI background check requirements specified at N.J.A.C. 10:121A-4.5 and CARI background check requirements specified at N.J.A.C. 10:121A-4.6.

New Rule, R.2011 d.245, effective October 3, 2011.
See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

SUBCHAPTER 5. SERVICES

10:121A-5.1 Scope of service

(a) An agency shall provide any or all of the following phases of adoption service:

1. Pre-placement services;
2. Home study services;
3. Placement services;
4. Post-placement services; or
5. Post-adoption services.

(b) An agency that provides a limited range of adoption services shall arrange for other services upon request of the clients.

(c) An agency shall comply with those sections of this subchapter that apply to the phases of adoption service that the agency has chosen to provide.

10:121A-5.2 General requirements

(a) An agency shall maintain on file and make available to its clients information on known resources in the community which may be of use to adoptive parents, birth parents, children and adult adoptees.

(b) An agency shall notify adoptive applicants and the Office of Licensing in writing within five working days when the agency receives information that a country is suspending adoption services and shall not accept any additional clients for assignment of children from that country until such time that adoption services have been re-established.

(c) Before services are provided, an agency shall make available to its adult clients the following:

1. A written description of its current adoption program, including information on the agency's services, the adoption process, including the availability of subsidy for special needs children, and other major referring agencies with whom the agency works; and
2. A verbal explanation of and a written agreement with the agency, describing specific services to be provided, fees to be charged, and rights and responsibilities of both parties.

(d) An agency that plans to place a child with an out-of-State family or to receive a child from out-of-State for placement within the State of New Jersey shall notify the Interstate Services Units of the Department and shall comply with the regulations governing child placement in the other state, where applicable.

(e) An agency shall comply with the requirements of the Federal Indian Child Welfare Act (P.L. 95-608) for placement of Native American children.

(f) An agency that is unable to locate an appropriate adoptive family within 60 calendar days of the date the child was legally freed for adoption shall:

1. Refer the child to the New Jersey Adoption Resource Exchange, or any successor Statewide exchange; and
2. Refer the child to an interstate or national adoption exchange.

(g) An agency may refer a child to any adoption exchange(s) earlier than is required under (f) above.

(h) An agency that has a special needs child in its care for whom the plan is adoption shall document in the child's record its efforts to develop an adoptive placement.

(i) An agency shall ensure access to its services by persons who are physically disabled or handicapped.

Amended by R.1997 d.480, effective November 17, 1997.
See: 29 N.J.R. 3230(a), 29 N.J.R. 4857(a).

Inserted new (b); and recodified existing (b) through (h) as (c) through (i).

Amended by R.2011 d.245, effective October 3, 2011.
See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

In (b), substituted "Office" for "Bureau"; in (d), substituted "out-of-State" for "out-of-state" and "out of state" and "Department" for "Division", and inserted "the" preceding "regulations"; and in (g), substituted "(f)" for "(e)".

10:121A-5.3 Fees and fiscal practices

(a) The agency shall not consider the clients' willingness to donate money, goods or services or to participate in agency fund-raising efforts in determining their eligibility for services.

(b) The agency shall provide equal access to services to all eligible clients without regard to actual or potential donations of money, goods, time or efforts.

(c) The agency shall prepare and maintain on file a written schedule of all fees charged and provide a copy of the schedule to an agency client before service delivery begins.

(d) The agency shall provide, as specified in N.J.A.C. 10:121A-5.2(b), information to all applicants on the agency's policies and procedures for the setting, collecting, waiving and payment of fees. This shall include its policies on refunding money/fees paid by the applicant(s) to the agency when:

1. An identified service is not rendered;
2. There is a disruption of services;
3. The child identified for adoption is no longer available for adoption;
4. There is a problem with the applicant(s) such as an illness, a divorce, a loss of job, or other circumstance which would affect the outcome of the adoption; or
5. The agency decides the applicant(s) is not suitable for adoption.

Amended by R.1995 d.431, effective August 7, 1995.

See: 27 N.J.R. 661(a), 27 N.J.R. 2922(a).

Deleted constraint on agency regarding withholding finalization of placements or adoptions for nonpayment of fees and added requirement for maintenance of a file of written refund requests.

Amended by R.1997 d.480, effective November 17, 1997.

See: 29 N.J.R. 3230(a), 29 N.J.R. 4857(a).

Rewrote (d).

10:121A-5.4 Services to birth parents

(a) The agency shall document in the case record all telephone and in-person contacts with the birth parents, birth family members or their legal representative that directly pertain to the adoption. All entries shall be signed by the individual making the entry and include the date of the entry.

(b) The agency shall:

1. Be prohibited from requiring the prospective birth parent(s) to sign a statement committing them to any definite plan for the unborn child in order to obtain services;
2. Be prohibited from requiring the birth parent(s) to surrender a child for adoption in order to receive medical services, maternity or residential care, or any other agency service;
3. Ensure that residential facility care, foster home care and/or maternity services that it provides to clients meets applicable state licensing, certification or approval requirements;
4. Encourage the birth mother to reveal the identity and whereabouts of the birth father;
5. Conduct a reasonable search for the birth father, if the name of the birth father is identified and his location is not known. The agency shall:
 - i. Send notice via regular and certified mail to the last known address of the birth father;
 - ii. Inquire discreetly among any known relatives, friends or employers of the birth father; and
 - iii. Make direct inquiry to public agencies that are believed to have information on the whereabouts of the birth father;

6. Provide the birth father with the opportunity to sign a surrender, a denial of paternity or otherwise exercise parental rights to the child pursuant to N.J.S.A. 9:3-45;

7. At least 20 calendar days before the child's adoption, provide written notification of the impending adoption to:

i. The guardian of a child to be adopted, who has not executed a surrender pursuant to N.J.S.A. 9:3-41;

ii. Any other person who has provided care and supervision in his or her home for the child for a period of six months or half of the life of the child, whichever is less, in the two years prior to the date the complaint was filed in the court by the prospective adoptive parent(s); and

iii. The birth father of the child to be adopted, unless the birth father is not identified or cannot be located after a reasonable search;

8. Inform those persons specified in (b)7 above that they have the opportunity to object to the adoption within 20 days after notice of the adoption is given in accordance with the Rules of Court; and

9. Provide documentation of the agency's compliance with (b)4 through 8 above in the case record.

(c) Before taking a surrender, the agency shall document that the birth parents were:

1. Provided at least three face-to-face counseling sessions conducted in a private and professional setting as specified in N.J.A.C. 10:121A-3.7(e), or at the birth parents' home, by qualified social work staff on separate days and that the birth parents were:

i. Offered counseling that fully:

(1) Explores alternatives to adoption;

(2) Addresses any presented emotional problems;

(3) Includes referrals to mental health agencies when such emotional problems interfere with the birth parents' decision-making regarding adoption; and

(4) Explores alternative plans for the child, including, but not limited to, temporary foster care, day care and care by relatives;

ii. Informed that only legal parents or legal guardians have the right to custody and control of their child and to surrender their child for adoption;

iii. Prepared, along with the child, for surrender and separation;

iv. Referred to other community resources when the agency cannot provide needed services;

v. Informed that the agency may contact them in the future if the adult adoptee or adoptive family or emancipated minor requests information or wishes to meet the birth parents;

vi. Advised that they may sign a written agreement at any time indicating their willingness to be contacted and/or to provide information if requested by the adoptee or adoptive family;

vii. Asked to update and submit to the agency their address(es) and/or any significant medical information required on the Medical Information Form, so that the medical information could be shared with the adoptive family and/or the adult adoptee; and

viii. Requested to provide an itemized statement for all adoption-related costs, if any, paid by the prospective adoptive parents prior to agency involvement in the adoption or an affidavit that no money was expended; and

2. Requested to sign a statement that indicates either:

i. The agency explained the information in (c)1 above to them; or

ii. They refuse to participate in the counseling sessions.

(d) The agency shall ensure that the birth parents understand the terms of the surrender and realize that the agency will assume custody and will have the right to consent to adoption of the child, pursuant to N.J.S.A. 9:3-41 and 30:4C-23.

1. The agency shall ensure that the full terms of this understanding are delineated in writing, signed and dated by the birth parent(s) and agency and maintained on file.

2. The agency shall ensure that the surrendering parent(s) is given the opportunity to state any preferences that he and/or she may have affecting the selection of adoptive parent(s), including specifying the adoptive parent(s) in a conditional surrender.

3. If the agency accepts a conditional surrender, the agency shall not permit any preferences stated by the surrendering parent(s) to interfere with the agency's authority and responsibility to act in the best interests of the child in selecting adoptive parents and the agency's obligation not to discriminate in the selection of adoptive parents, as specified in N.J.A.C. 10:121A-1.7(b). If the agency determines that the adoptive parent(s) specified by the surrendering parent(s) can not be approved, the agency shall either:

i. Return the child to the surrendering parent(s);

ii. Discuss with the surrendering parent(s) an alternate choice of adoptive parent(s) and if they reach an agreement, place the child with the alternate adoptive parent(s); or

iii. If the agency can not meet the provisions specified in (d)3i or ii above, initiate appropriate action through the court to determine the legal status of the child.

4. The agency shall not take a surrender before the child is 72 hours old.

5. Each surrender shall be acknowledged by an agency representative and shall be notarized. The agency representative and the notary shall not be the same person; however, the notary may be a staff member from the agency.

6. The agency shall document the following:

i. The names of the persons who were present at the time of the surrender;

ii. Where the surrender was taken; and

iii. The agency representative's observation of the birth parents' demeanor and competence during the discussion of the surrender and a statement that the birth parents were not coerced.

7. A valid surrender executed in another state or foreign country by a resident of that state or country shall be deemed a valid surrender in this State if taken more than 72 hours after the birth of the child.

8. The agency shall document that birth parents who cannot read English fully understood the meaning of surrender.

9. The agency shall not delay returning a child to a birth parent(s) who decided not to surrender solely because the parent(s) is unable to pay medical and/or other fees.

(e) The agency shall request the court to terminate parental rights where state law provides grounds for termination of parental rights and there is reason to believe that termination of parental rights is necessary for the protection of the child.

(f) The agency shall provide at least one in-person contact with birth parents who request counseling after the child is freed for adoption.

(g) An agency that arranges for, provides directly, finances or subsidizes the costs of adoption expenses, as specified in N.J.A.C. 10:121A-5.8(i)1viii, of a birth mother shall comply with all of the following:

1. The agency shall maintain on file a written policy that governs payments made on behalf of birth mothers.

i. A copy of this policy shall be given to each birth mother and prospective adoptive parent at the time of initial inquiry or application; and

ii. The birth mother shall be advised in writing, that any services or payments that she may be granted will be made to her without regard to her present or future decision to surrender her child(ren) for adoption and that

the agency will not require or request reimbursement from her for such services and/or payments.

2. Unless the birth mother terminates her relationship with the agency, the agency shall notify the birth mother in writing at least 30 calendar days prior to the date of its last services or payments for adoption-related services, that services and/or payments will be terminated by the 30th calendar day following the birth of the child or after the 30th calendar day following the signed release for termination of parental rights for whom adoption services were sought. The agency shall also notify the birth mother in writing within 30 days when the agency documents that the need for such services or payments no longer exists.

3. The agency shall maintain in its case files any receipts, cancelled checks and/or invoices or photocopies of such receipts, cancelled checks and/or invoices as a record of all cash payments that were made on behalf of the birth mother. The agency may utilize a case ledger to record this information provided that copies or actual receipts, cancelled checks and/or invoices are made available to the Office of Licensing upon request.

Amended by R.1992 d.514, effective December 21, 1992.

See: 24 N.J.R. 3500(a), 24 N.J.R. 4552(a).

Services to birth parents added at (c); medical expense provisions for birth mother and adoptee added at (h) through (l).
Administrative Correction.

See: 25 N.J.R. 2883(b).

Amended by R.1995 d.431, effective August 7, 1995.

See: 27 N.J.R. 661(a), 27 N.J.R. 2922(a).

Rewrote (a) through (d) regarding contact with birth parents, surrender of children and placement notifications; deleted (g) through (k) regarding identified adoptions and medical care for birth mothers and children; and renumbered existing (l) as (g).

Amended by R.2011 d.245, effective October 3, 2011.

See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

Added new (b)4 and (b)5; recodified former (b)4 and (b)6 as (b)6 and (b)7; deleted former (b)5; added new (b)6iii; recodified former (b)6iii as (b)8 and (b)7 as (b)9; in (b)8, substituted "(b)7" for "(b)6i and ii"; in (b)9, substituted "through 8" for "to 6"; in the introductory paragraph of (c)1, updated the N.J.A.C. reference; rewrote (c)1i; in the introductory paragraph of (d), deleted "N.J.S.A." preceding "30:4C-23"; added new (d)5 and (d)6; recodified former (d)5 through (d)7 as (d)7 through (d)9; in (g)1i, substituted "parent" for "couple"; and in (g)3, substituted "Office of Licensing" for "Bureau".

Case Notes

Surrogate parenting contract's provision for termination of mother's parental rights violated laws requiring proof of parental unfitness or abandonment before termination of parental rights is ordered or adoption is granted. Matter of Baby M, 109 N.J. 396, 537 A.2d 1227 (1988), on remand 225 N.J.Super. 267, 542 A.2d 52.

Adoption statute would be construed to allow surrender of parental rights only after birth of child. Matter of Baby M, 109 N.J. 396, 537 A.2d 1227 (1988), on remand 225 N.J.Super. 267, 542 A.2d 52.

Surrogate parenting contract violated laws making surrender of custody and consent to adoption revocable in private placement adoptions. Matter of Baby M, 109 N.J. 396, 537 A.2d 1227 (1988), on remand 225 N.J.Super. 267, 542 A.2d 52.

Surrogate parenting contract violated policy that rights of natural parents are equal concerning their child, with father's right being no greater than mother's, violated policies governing consent to surrender of child, and violated policy of concern for best interests of child. Matter

of Baby M, 109 N.J. 396, 537 A.2d 1227 (1988), on remand 225 N.J.Super. 267, 542 A.2d 52.

Adoption of child through private placement disfavored in New Jersey. Matter of Baby M, 109 N.J. 396, 537 A.2d 1227 (1988), on remand 225 N.J.Super. 267, 542 A.2d 52.

Only irrevocable consent to surrender of parental rights is the one explicitly provided for by statute. Matter of Baby M, 109 N.J. 396, 537 A.2d 1227 (1988), on remand 225 N.J.Super. 267, 542 A.2d 52.

10:121A-5.5 Preplacement services to the child

(a) The agency shall complete a comprehensive study for each child evaluated for adoption. The study shall include:

1. A medical examination of the child at birth or at the time when the agency assumed custody and again within 30 calendar days before placement in an adoptive home to determine the child's health and any factors that may interfere with normal development;

2. In addition to (a)1 above, for a child under two years of age, the agency shall provide the adoptive applicant(s) with information regarding medical examinations, medical testing, medical/surgical treatment and immunizations, if any, within 30 calendar days before placement in an adoptive home.

3. Information to the extent available about the child's birth family to determine hereditary factors or pathology that may affect the child's normal development and potentialities as required on forms developed by the Commissioner of the Department of Children and Families, pursuant to N.J.S.A. 9:3-41.1(b);

4. Information on previous placements, if applicable;

5. Any specialized evaluations for a physically and/or mentally disabled child to help better understand the child's strengths and limitations;

6. The child's involvement in the adoption or documentation of the reason(s) for not involving the child; and

7. A careful evaluation of the advisability, in terms of best interest, and feasibility of placing the child together with full or half-siblings whose permanency goal is also adoption or who may have been placed for adoption previously. The agency shall document, in the case record of the child for whom adoption is currently being planned, any contraindicators and/or barriers to the co-placement of siblings, regardless of when they became legally free for adoption.

(b) The agency shall provide foster care services, as necessary, to ensure the health and safety of children who are waiting for legal clearance and/or adoptive placement.

1. The agency shall establish written criteria by which foster parent applicants are eligible to apply to the agency to provide foster care for a child.

- i. The agency shall ensure that the criteria apply equally to all applicants.
 - ii. The agency shall make the criteria available to the Office of Licensing, to all prospective foster parent applicants and, upon request, to any person.
2. Before approving foster parents, the agency shall ensure that foster parents:
- i. Submit written reports of medical examinations conducted within the past calendar year for all household members. These reports shall indicate that all household members are free of communicable diseases or other medical impediments to the placement of foster children in the home;
 - ii. Submit a physician's written statement attesting that the foster parents' health status is such that they are physically capable of providing foster care services;
 - iii. Submit three written references that shall be stored in the foster family's record; and
 - iv. Allow the agency to conduct a home visit so that the agency can prepare a written assessment before the home is used.
3. Before a child is placed in an approved foster home, the agency shall ensure that the foster parent(s) signed an agreement that specifies the terms and conditions of service and financial remuneration.
4. If a foster home has not been used for a year, the agency shall update the evaluation of the home before placing a child.

(c) An agency that provides foster care services in homes located in New Jersey for children under the auspices of the Department who are waiting for legal clearance and/or adoptive placement shall ensure that such homes comply with the provisions of N.J.S.A. 30:4C-27.3, the Resource Family Parent Licensing Act.

(d) The agency shall give foster parents a telephone number to contact in case of emergency.

(e) The pre-placement services shall be recorded in the child's record, as specified in N.J.A.C. 10:121A-3.6(d).

Amended by R.1997 d.480, effective November 17, 1997.

See: 29 N.J.R. 3230(a), 29 N.J.R. 4857(a).

Inserted new (a)2; and recodified existing (a)2 through (a)6 as (a)3 through (a)7.

Amended by R.2011 d.245, effective October 3, 2011.

See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

In (a)3, substituted "Children and Families" for "Human Services"; in (a)5, substituted "disabled" for "handicapped"; in (b)1ii, substituted "Office of Licensing" for "Bureau"; added new (c); and recodified former (c) and (d) as (d) and (e).

10:121A-5.6 Home study services

(a) The agency shall document in the case record all telephone and in-person contacts with the adoptive appli-

cant(s) or their legal representative that directly pertain to the adoption. All entries shall be signed by the individual making the entry and include the date of the entry.

(b) The agency shall:

1. Provide social work services throughout the home study to help applicants decide if adoption is the best plan for them;
2. Establish and maintain on file written criteria by which adoptive applicants are eligible to apply to adopt a child;
3. Ensure that the criteria specified in (b)2 above apply equally to all applicants; and
4. Make the criteria specified in (b)2 above available to the Office of Licensing, to all prospective adoptive applicants and, upon request, to any person.

(c) The agency shall ensure that each adoptive applicant:

1. Has attained the age of 18 years and is at least 10 years older than the child being adopted. If the applicant is not 10 years older than the child to be adopted, the agency may petition the court to waive the requirement; and
2. Has the capacity to meet the child's physical and emotional needs.

(d) The agency shall also ask applicants to disclose any history of child abuse or neglect or any criminal record, excluding minor traffic violations.

(e) The agency shall advise the applicants of the home study process, including the length of time involved. The home study process shall include the following:

1. At least three in-person contacts that are held on separate days to conduct joint and individual interviews with married applicants. Individual interviews with spouses may be counted as separate in-person contacts. Home study groups may be utilized and counted as one separate in-person contact with married applicants provided that:

i. No more than 10 adoptive parents per each group facilitator are in the group;

ii. The person facilitating the group meets the education and experience requirements for the social worker as specified in N.J.A.C. 10:121A-4.4(c); and

iii. The person facilitating the group maintains a record/notes of the discussions that occurred during group;

2. At least one in-person contact to conduct joint and individual interviews with all members of the applicant's household. These contacts may be held on the same day as the contacts for the married applicants;

3. At least one visit to the residence of the applicant(s);

4. A review of the applicant's current job reference(s):

i. If the applicant states that a request for a current job reference will jeopardize the applicant's employment status, the agency shall obtain a reference from a previous employer.

ii. If a previous employer is not available, the agency shall obtain a reference from an appropriate alternative such as a former teacher or the applicant's supervisor of a volunteer activity; and

5. A review of three personal references from persons unrelated to the applicant(s):

i. The agency shall obtain at least one reference who has known the applicant for five years.

ii. The agency shall obtain at least one reference from a neighbor of the applicant(s). However, if such a reference cannot be obtained, a second reference as specified in (e)5i above may be substituted.

iii. Applicants from the same household may obtain the same personal reference, provided that the personal reference source has knowledge of each applicant.

(f) The agency shall obtain information on the applicants. Such information shall include, but not be limited to:

1. Identifying information such as: name, address, age, occupation, citizenship, race and ethnic background, education, social security number, religion (if any), and children in the home;

2. A description of each adoptive applicant's awareness and sensitivity to special issues that adopted children need to resolve, including the child's identity, attitudes toward birth parents and circumstances of the child's availability for adoption;

3. The family's recognition of the importance of and the family's plans for helping the child accept being adopted;

4. Applicants' interests, hobbies, child caring skills, strengths and weaknesses and how they see themselves and each other;

5. Philosophies on child rearing, discipline, parental roles, experience with children;

6. Emotional stability and maturity of the applicant(s), including understanding of and ability to cope with problems, stress, frustration, crisis, separation and loss, capacity to give and receive affection, and ability to distinguish between their needs and those of the child;

7. State of their marital, civil union or domestic partner relationship, decision making, communication, roles in the family and how they handle differences of opinion, if relevant;

8. The attitudes of other members of the family and of significant other persons involved with the family towards the adoption, description of them as individuals and how they interact as a family, and adjustment of other children in the family;

9. Each parent's family life history that includes: childhood experiences, what their home life was like, their parents' method of discipline and handling problems, their family ties, current family relationships and relatives' attitudes towards adoption;

10. Each parent's agreement not to use excessive corporal punishment as a means of discipline or otherwise engage in abusive or neglectful behavior pursuant to Title 9 of the New Jersey Statutes Annotated;

11. Written medical reports on each applicant and all other persons living in the home that include health, results of laboratory tests or X-rays if ordered by the physician, and the physician's recommendation on the applicant's health status as it relates to the applicant's capacity to be an adoptive parent;

12. Verifications of present or previous marriage(s) and divorce(s) of each adoptive applicant, including deaths of former spouses when there was no divorce;

13. A statement of the agency's assessment of the results of State and Federal Criminal History Record Information (CHRI) fingerprint background checks, as specified in (g) below;

14. A statement of the agency's assessment of the results of Division of Child Protection and Permanency Child Abuse Record Information (CARI) background checks, as specified in (n) below;

15. Location and description of physical environment of the residence and neighborhood;

16. Statement of income and financial resources, and a description of the applicant's capacity to manage finances;

17. A description of the type(s) of children the adoptive applicants can accept, including age range, sex, sibling groups and physical, social, emotional or developmental disabilities in the child;

18. A description of any birth family background problems, such as medical or hereditary problems, incest, mental illness, or drug use; and

19. A description of the applicant's capacity to make viable child care arrangements while the applicant(s) is employed, if relevant.

(g) As part of the home study, the agency shall obtain Criminal History Record Information (CHRI) fingerprint background checks on each adoptive applicant and all persons residing in the adoptive applicant's home who are 18 years of age or older, except as specified in (v) below. For the

purposes of processing requests for CHRI fingerprint background checks, the agency shall ensure that:

1. The identity of each adoptive applicant and each adult who resides in the adoptive applicant's home is verified through a valid driver's license with photograph, a valid passport or other government-issued picture identification;

2. Fingerprints are obtained utilizing the electronic fingerprinting process through the vendor authorized by the State to conduct CHRI background checks through the Division of State Police in the Department of Law and Public Safety and the Federal Bureau of Investigation, except as specified in (h) and (i) below;

3. A list is maintained of all adoptive applicants and adults who reside in the applicant's home who are fingerprinted;

4. All required fees for electronic fingerprinting are submitted by the adoptive applicants to the vendor authorized by the State to conduct CHRI background checks through the Division of State Police in the Department of Law and Public Safety and the Federal Bureau of Investigation;

5. All correspondence involving individual fingerprints or the results of the CHRI is marked "Confidential";

6. A record of the results of the CHRI and the date the results are received by the agency is maintained in the applicant's case record; and

7. When the results of a CHRI reveal a criminal conviction, the agency:

i. Discloses the results of the CHRI only to the specific individual on whom the CHRI was conducted; and

ii. Discloses to the adoptive applicant(s) the name of the adult residing in the applicant's home who has a criminal conviction, but does not disclose to the adoptive applicant(s) any other information about the conviction.

(h) An agency providing services to an adoptive applicant residing in a state other than New Jersey shall obtain the CHRI background check for the applicant and adult members of the applicant's household from the state where the applicant resides, in lieu of obtaining a New Jersey State CHRI, provided that:

1. The agency obtains the Federal CHRI background check for the individual; and

2. The agency documents that the individual never resided or worked in New Jersey.

(i) An agency providing services to an out-of-State resident who previously resided or worked in New Jersey, or to a New Jersey resident who is unable to access the electronic fingerprinting process due to illness or injury, shall

obtain the CHRI background check using the fingerprint cards supplied by the Department of Children and Families.

1. Such fingerprints may be taken:

i. At the adoption agency by trained agency staff or by a trained person who is hired or volunteers to take fingerprints on behalf of the agency;

ii. At the local police station; or

iii. By trained staff of another adoption agency, as part of a cooperative effort.

2. The completed fingerprint cards and required fees shall be submitted to the Department of Children and Families.

(j) A public adoption agency shall disqualify an adoptive applicant if the applicant or any adult residing in the applicant's household was convicted of one of the following crimes or offenses:

1. A crime against a child, including endangering the welfare of a child and child pornography pursuant to N.J.S.A. 2C:24-4; or child abuse, neglect or abandonment pursuant to N.J.S.A. 9:6-3;

2. Murder pursuant to N.J.S.A. 2C:11-3 or manslaughter pursuant to N.J.S.A. 2C:11-4;

3. Aggravated assault, which would constitute a crime of the second or third degree pursuant to N.J.S.A. 2C:12-1b;

4. Stalking pursuant to N.J.S.A. 2C:12-10;

5. Kidnapping and related offenses, including criminal restraint; false imprisonment; interference with custody; criminal coercion; or enticing a child into a motor vehicle, structure or isolated area pursuant to N.J.S.A. 2C:13-1 through 6;

6. Sexual assault, criminal sexual contact or lewdness pursuant to N.J.S.A. 2C:14-2 through 4;

7. Robbery, which would constitute a crime of the first degree pursuant to N.J.S.A. 2C:15-1;

8. Burglary, which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:18-2;

9. Domestic violence pursuant to N.J.S.A. 2C:25-17 et seq.;

10. Endangering the welfare of an incompetent person pursuant to N.J.S.A. 2C:24-7 or endangering the welfare of an elderly or disabled person pursuant to N.J.S.A. 2C:24-8;

11. Terrorist threats pursuant to N.J.S.A. 2C:12-3;

12. Arson pursuant to N.J.S.A. 2C:17-1, or causing or risking widespread injury or damage, which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:17-2; or

13. An attempt or conspiracy to commit an offense specified in (j)1 through 12 above.

(k) A public adoption agency shall disqualify an adoptive applicant if the applicant or an adult residing in the applicant's household was convicted of one of the following crimes or offenses, and the date of release from confinement (the date of termination of court-ordered supervision through probation, parole, or residence in a correctional facility, whichever date occurs last) occurred within the preceding five years:

1. Simple assault pursuant to N.J.S.A. 2C:12-1a;
2. Aggravated assault which would constitute a crime of the fourth degree pursuant to N.J.S.A. 2C:12-1b;
3. A drug-related crime pursuant to the Comprehensive Drug Reform Act, N.J.S.A. 2C:35-1 et seq.;
4. Robbery which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:15-1;
5. Burglary which would constitute a crime of the third degree pursuant to N.J.S.A. 2C:18-2; or
6. An attempt or conspiracy to commit an offense specified in (k)1 through 5 above.

(l) For a public adoption agency when the conviction is for a crime or offense other than those specified in (j) and (k) above, and for a private adoption agency for a conviction for any crime or offense, the agency shall utilize the following criteria for assessing the suitability of the adoptive applicant when the CHRI reveals a record of criminal conviction by the adoptive applicant or an adult residing in the applicant's household. The agency shall:

1. Examine the nature and seriousness of the crime and the date it occurred. Special attention shall be given to crimes of violence, crimes that involve the use or threat of a weapon, rape/sexual assault, crimes that result in the loss of life and crimes against children;
2. Discuss the circumstances of the crime with the convicted individual, in a confidential manner as specified in (g)8 above;
3. Assess whether the age of the convicted individual at the time the crime was committed is a relevant factor;
4. Take into consideration whether the crime was an isolated or repeated incident;
5. Assess whether there were social conditions/extenuating factors involved that may have contributed to the crime or mitigated the convicted individual's culpability; and
6. Determine whether the convicted individual completed a rehabilitation program, including a prison sentence, stays in a half-way house, treatment received in a drug treatment facility, treatment received in a psychiatric

hospital or counseling received in the community. If such evidence exists, the agency shall assess whether the convicted individual has been rehabilitated and shall consider such rehabilitation in making a determination; and

7. Inform the Office of Licensing of its assessment of the suitability of the adoptive applicant(s).

(m) The CHRI background checks specified in (g) and (h) above shall be valid for 12 months from the date the results are received by the agency.

(n) The agency shall obtain Child Abuse Record Information (CARI) background checks from the Division of Child Protection and Permanency on each adoptive applicant and all persons residing in the adoptive applicant's home who are 18 years of age and older, except as specified in (n)5 below. The agency shall ensure that:

1. CARI background check forms supplied by the Office of Licensing are completed and signed by the adoptive applicant(s) and other adult(s) residing in the adoptive applicant's home and submitted along with a fee of \$10.00 for each CARI background check, in the form of a check or money order made payable to the "Treasurer, State of New Jersey," to the address designated by the Office of Licensing;

2. All correspondence between the agency and the Department involving CARI background check forms and related information is marked "confidential";

3. When the results of a CARI background check reveal a substantiated incident(s) of child abuse and/or neglect, the agency:

- i. Discloses the results of the CARI background check only to the individual identified by the Department as the perpetrator of the child abuse and/or neglect incident(s); and
- ii. Discloses to the adoptive applicant(s) the name of the perpetrator, if other than the applicant(s), but does not disclose to the applicant(s) any other information concerning the incident;

4. As part of the home study, the agency utilizes the following criteria for assessing the suitability of the adoptive applicant(s) when the CARI background check reveals that the adoptive applicant(s) or adult(s) residing in the home has a record of a substantiated incident(s) of child abuse and/or neglect. Utilizing the results of the CARI background checks and through contacts with the adoptive applicant(s), the agency shall:

- i. Examine the nature and seriousness of the abuse and/or neglect incident(s) and the date(s) it occurred, with particular concern for incidents of sexual abuse and abuse or neglect that resulted in the death or serious injury of a child;

ii. Discuss the circumstances of the abuse and/or neglect incident(s) with the adoptive applicant(s) or adult(s) residing in the home in a confidential manner as specified in (n)³ above;

iii. Assess whether the age of the perpetrator at the time the abuse and/or neglect incident(s) occurred is a relevant factor;

iv. Take into consideration whether the incident(s) of abuse and/or neglect was an isolated or a repeated incident;

v. Assess whether there were circumstances or extenuating factors involved that may have contributed to the incident(s) of abuse and/or neglect or mitigated the perpetrator's culpability; and

vi. Determine if the perpetrator has completed a rehabilitation program or counseling program. If such evidence exists, the agency shall make an assessment whether the perpetrator has been rehabilitated and shall consider such rehabilitation in making a determination;

5. For an adoptive applicant residing in a state other than New Jersey, the agency obtains a child abuse background check for the applicant and adult members of the applicant's household from the state where the applicant resides, in lieu of obtaining a New Jersey CARI check, provided that the agency documents that the individual never resided or worked in New Jersey. For individuals who previously resided or worked in New Jersey, the agency shall obtain both a New Jersey CARI check and a child abuse background check from the state where the applicant resides. For individuals who previously resided or worked in a state other than New Jersey and currently reside in New Jersey, the agency shall obtain both a New Jersey CARI check and a child abuse background check from the state where applicant previously resided; and

6. The agency maintains the results of the CARI background check and/or child abuse background check from another state in the adoptive applicant's file.

(o) The CARI background checks specified in (n) above shall be valid for 12 months from the date the results are received by the agency.

1. If a child is not placed in the adoptive applicant's home within 12 months, the agency shall obtain an additional CARI background check as specified in (n)² above, for each applicant and all persons residing in the applicant's home who are 18 years of age and older, prior to placement of a child in the adoptive applicant's home.

2. The agency shall maintain the results of the additional CARI background checks in the adoptive applicant's file.

(p) The home study shall not be shared with any person, parent, adoptive applicant or agency until it has been com-

pleted. The home study shall be considered complete when it contains all information specified in (g) through (n) above.

(q) When an employee or consultant is adopting a child through the agency they work for or provide services to, the employee or consultant shall obtain a home study from another certified agency.

(r) The agency shall not place a child in the adoptive applicant's home for the purpose of adoption without a completed home study.

(s) After the home study has been conducted, the social worker who conducted the study and the social work supervisor shall co-sign a letter to the adoptive parents or otherwise indicate in writing that the approval or rejection decision was made jointly.

1. The agency shall make the approval or rejection decision after carefully assessing all the information obtained during the home study.

2. The agency shall inform the applicant(s) of its decision in writing within 30 calendar days after the last contact with the applicant(s).

i. When an applicant is approved, the agency shall recommend to the applicant the type(s) of child(ren) who can best adjust to the family and to whom the family can best adjust. When the agency's recommendation of the type(s) of child(ren) to be considered for adoption is different from the applicant's initial preference for a certain type(s) of child(ren), the agency shall document in the adoptive family record the results of the discussion between the social worker and the applicant on this point.

ii. When the applicant pursues a child(ren) different from the type(s) of child(ren) recommended by the agency, the agency shall reevaluate the home study to determine if the applicant can be approved for the type of child he or she is seeking.

iii. When an applicant is not accepted, the agency shall:

(1) Explain to the applicant the reason(s) that a child cannot be placed with the family;

(2) Offer the applicant at least one in-person contact to help the applicant adjust to the agency's decision; and

(3) Provide the applicant information, both verbally and in writing, of the agency's grievance procedure.

(t) Upon receipt of a written request from adoptive applicants who have undergone a home study for a foreign adoption, the agency shall forward to the applicants the home study within 30 calendar days of the request.

(u) For applicants who have been studied, approved and placed on a waiting list for longer than 12 months from the time their home study was approved, the agency shall ensure that the home study is current within 12 months of the child's being placed into the home, except for home studies for foreign adoption, which may be current for 18 months of the child's being placed in the home. The updated home study shall include:

1. One or more interviews with all members of the applicants' household;
2. Medical reports within the past year for all members of the applicants' household;
3. A visit to the residence of the applicant(s); and
4. Updated financial information, as specified in (f)16 above.

(v) For applicants who are being considered for adoption of one or more additional children, the agency shall:

1. Update the home study as specified in (u) above; and
2. Evaluate the adjustment status of the previously placed child(ren) with the family.

(w) For a stepparent adoption, a CHRI shall not be required for household members 18 years of age and older who are related to the birth parent.

(x) The Criminal History Record Information (CHRI) fingerprint background check and the Child Abuse Record Information (CARI) background check conducted on an adoptive parent(s) whose child's adoption in a foreign country is recognized by the United States government shall be valid for such adoptive parent(s) when seeking a re-adoption in New Jersey.

(y) A New Jersey State Police fingerprint background check, as specified in N.J.A.C. 10:121A-5.6(g), shall be obtained by the agency for an adoptive parent(s) seeking adoption in New Jersey for a child whose adoption in a foreign country is not recognized by the United States government. The agency shall also meet the following requirements:

1. A home study shall be conducted, except that a Federal fingerprint background check shall not be required; and
2. The agency shall maintain the results of the New Jersey State Police fingerprint background check in the file of the adoptive parent(s).

Amended by R.1992 d.514, effective December 21, 1992.
See: 24 N.J.R. 3500(a), 24 N.J.R. 4552(a).

In-person contacts to occur on separate days; group contacts permitted; medical records required of all residents of adoptive home; re-evaluations required for those seeking child different from agency recommendation.

Administrative Correction.
See: 25 N.J.R. 2883(b).

Amended by R.1995 d.431, effective August 7, 1995.
See: 27 N.J.R. 661(a), 27 N.J.R. 2922(a).

Criminal History Record Information (CRHI) fingerprint checks and Child Abuse Registry Information background checks required of all residents of adoptive home over 18 years of age; exceptions for household members related to birth parent in stepparent adoptions; applicability of required fingerprint and background checks to foreign adoptions.

Amended by R.1996 d.234, effective May 20, 1996 (operative July 1, 1996).

See: 28 N.J.R. 142(a), 28 N.J.R. 2620(a).

In (i)1 imposed a \$10 fee.

Amended by R.1997 d.480, effective November 17, 1997.

See: 29 N.J.R. 3230(a), 29 N.J.R. 4857(a).

Inserted new (l); and recodified existing (l) through (s) as (m) through (t).

Amended by R.2011 d.245, effective October 3, 2011.

See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

Rewrote the section.

Amended by R.2014 d.125, effective August 4, 2014.

See: 46 N.J.R. 271(a), 46 N.J.R. 1747(a).

Rewrote (f)10; and in (f)14 and (n), substituted "Child Protection and Permanency" for "Youth and Family Services".

Case Notes

Adoption procedure; agency action in removing child from home of prospective parents during six month supervisory period affirmed. In re: J.P., 198 N.J.Super. 166, 486 A.2d 907 (App.Div.1985).

10:121A-5.7 Placement services

(a) The agency shall have responsibility for the selection of approved adoptive parents for a child upon successful completion of a home study as specified in N.J.A.C. 10:121A-5.6.

1. The agency shall not place a child for adoption before documenting in the child's record the reason(s) for placing the child with the adoptive family.

2. The agency shall document in the child's record efforts to place siblings together in the same adoptive home; if a child is not to be placed together with siblings who are also legally free or who were adopted previously, the agency shall document in the child's record at the time of placement the reasons that co-placement was not in the child's interest or the factors that made co-placement unfeasible.

3. The agency shall give the adoptive parent(s) a written explanation of their rights and responsibilities regarding the child during the supervision period. Such information shall include, but not be limited to, areas of medical care, financial responsibilities, travel outside the state and any areas where the law requires the consent of a parent or guardian.

4. In instances where an agency that is not certified by the Department is involved with a Department-certified agency, both agencies shall share information and reach a mutual decision on each adoptive placement.

5. The agency shall not disqualify any adoptive parent(s) rejected for a particular child from being considered for the adoption of another child, unless basic conflicts about adoption and/or parenting style are revealed, or the

adoptive parent(s) are unable to accept the children who are available for adoption through the agency.

(b) The agency shall provide the following information to adoptive parent(s):

1. A written history of the child, including developmental and medical history and reason(s) for surrendering the child. If the child has special needs, the agency shall provide the applicant(s) with an assessment of the child's long-term needs, along with written information about the availability of subsidy and a list of community resources that provide services to address the child's needs;

2. An explanation that the adoptee may ultimately wish to seek information contained in the permanent record concerning his or her birth family and may in the future attempt to contact the birth family; and

3. An explanation that the agency may contact the adoptive parent in the future to convey updated information about the adoptee's birth family.

(c) The agency shall comply with the following escort and/or transportation requirements:

1. An agency engaged in transporting children for adoption shall ensure that adoptive parents or other escorts who accompany children from a referring agency to their adoptive families are informed of the child's medical needs;

2. An agency that provides or arranges for escort transportation service for children as part of its adoption program shall ensure that no child is left unattended during any portion of the trip to the adoptive family, unless the agency documents in the child's record that the child is physically and emotionally capable of traveling independently;

3. Persons providing children's escort services for an agency shall have a written statement from the agency describing their respective authority and responsibilities and shall carry proper identification, including their name and the agency's name while performing their duties.

i. The agency shall provide escorts with emergency information, names, telephone numbers and appropriate medical supplies and shall arrange for the safe and expeditious transfer of children to their adoptive parent(s) upon arrival.

ii. The agency shall require proof of identification by any person accepting temporary or permanent responsibility for the child's arrival; and

4. The agency shall document the escort and/or transportation plan in the child's record.

Amended by R.2011 d.245, effective October 3, 2011.

See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

In (a)4, substituted "Department" for "Bureau" twice.

10:121A-5.8 Post-placement services

(a) In keeping with the home study and supervision requirements specified at N.J.A.C. 10:121A-3.6(d)14, the agency shall:

1. Visit the home within 14 calendar days of the adoptive placement after the first day of placement, and document in the child's record that:

i. The child's background information was reviewed with the adoptive parent(s);

ii. The adoptive parent(s) and child were given reassurance that their feelings, worries and joys are natural and understandable;

iii. School age children have an educational plan, pursuant to N.J.S.A. 30:4C-26(c) and N.J.S.A. 18A:7B-12(a); and

iv. Working parent(s) have made child care arrangements.

2. For children under five years of age, the agency shall:

i. Conduct bi-monthly home visits after the first visit for at least six months, except when the adoption is delayed past the six month supervisory period because the court has a backlog of cases. In these instances, the agency may conduct office visits on a quarterly basis instead of home visits until the adoption has been finalized.

ii. Document in the child's record that all members of the adoptive family's household were interviewed during the placement supervision period; and

iii. Document in the child's record that the following issues were discussed:

(1) How the presence of the child changed the lifestyle and marital, civil union, domestic partnership and/or sibling relationships and how the child and extended family view each other;

(2) What role each family member has assumed regarding child care and discipline; and

(3) How parents cope with demands of a crying infant and/or a child who "tests" the placement and how the family reacts to these episodes including any feelings of insecurity about doing the "right" thing.

3. For children age five or older, the agency shall:

i. Conduct monthly home visits during the minimum supervisory six-month period, and then bi-monthly home or office visits until the adoption is finalized, if the court has a backlog of cases;

Amended by R.1992 d.514, effective December 21, 1992.

See: 24 N.J.R. 3500(a), 24 N.J.R. 4552(a).

"Approved" adoptive parents specified.

ii. Document in the child's record that the child was interviewed privately about his feelings about the adoption at each supervisory visit; and

iii. Document in the child's record that the following issues were discussed:

(1) How the presence of the child changed the lifestyle and marital, civil union, domestic partner and/or sibling relationships and how the child and extended family view each other;

(2) What role each family member has assumed regarding child care and discipline;

(3) How the child "tests" the placement and how the family reacts to these episodes, including any feelings of insecurity about doing the "right" thing;

(4) How the family perceives the child's sense of identity and the need to fill in gaps in the child's history;

(5) How the child has adjusted to the school environment; and

(6) Document in the child's record that all members of the adoptive family's household were interviewed during the placement supervision period.

(b) The agency shall ensure that consents are not signed before the completion of the six month supervision, as specified in (a)2i above, unless the child's placement has been at least six months and the agency ensures the completion of the fourth supervision visit as scheduled.

(c) If a child under two years of age is in an adoptive home for more than one year without the adoption being finalized, the agency shall document to the Office of Licensing in writing the reason(s) that the adoption has not been finalized. Such information shall be provided no later than 30 calendar days after the one-year adoptive placement supervision period has ended.

(d) If a child over two years of age is in an adoptive home for more than two years without the adoption being finalized, the agency shall document to the Office of Licensing in writing the reason(s) that the adoption has not been finalized. Such information shall be provided no later than 30 calendar days after the two-year adoptive placement supervision period has ended.

(e) The agency shall remove the child only if his or her security and well-being are impaired or his or her needs are no longer served by the adoptive placement.

(f) The adoptive parents may request the removal of the child if they decide that they no longer want to adopt the child.

(g) The Division may remove a child where there is reason to believe that the child has been abused or neglected and that

the continued placement with the adoptive family poses a serious or irremediable risk to the child pursuant to N.J.S.A. 9:6-8.9, 8.10, 8.13 and 8.14.

(h) When a child is removed from an adoptive placement, the agency shall:

1. Place the child in another adoptive home or make other suitable living arrangements for the child;

2. Document how the child was assisted with separation;

3. Offer counseling consisting of at least two in-person contacts with the former adoptive parents; and

4. Offer supervision and/or consultation to the social worker responsible for the child removed from the adoptive home.

(i) The agency shall cooperate with the adoptive parents and/or the attorney, if any, retained by the adoptive parents to finalize the adoption.

1. The agency shall provide all information and documents needed to finalize the adoption pursuant to State Adoption Law (N.J.S.A. 9:3-37 et seq.) and shall file a written report to the court at least five calendar days before the hearing. This information shall include:

i. The name and age of each adoptive parent and the relationship, if any, of each adoptive parent to the child to be adopted;

ii. The name, age and birthplace of the child to be adopted, and whether any or all of this information is unknown to the adoptive parents;

iii. The certified agency or other source from which the adoptive parents received the child to be adopted;

iv. The circumstances surrounding the surrender of the child to the agency;

v. The results of the agency's evaluation of the child and of the adoptive parent(s), including a description of the care being received by the child and the adjustment of the child and parent(s) as members of a family, and a summary statement of the agency's recommendation to the court regarding finalization;

vi. A full description of all property belonging to the child to be adopted;

vii. The name by which the child to be adopted will be known; and

viii. An itemized statement of all fees and costs paid by the adoptive parents in connection with the adoption. Such costs shall include expenses related to any of the following:

(1) Payment, provision or reimbursement to a parent for medical expenses, reasonable living ex-

penses, shelter, and religious, psychological, vocational, or similar counseling services;

- (2) Application and home study costs;
- (3) Pre-adoptive care of the child, whether in foster, group, residential or institutional care;
- (4) Costs related to the child's placement, including transportation and escort costs;
- (5) Costs related to post-placement supervision; and
- (6) Finalization costs and other associated legal expenses.

2. If the agency's report to the court contains any material findings or recommendations adverse to the adoptive parent(s), the agency shall serve a copy of the report to the adoptive parent(s) at least five working days before the hearing.

3. The agency shall solicit and consider the child's wishes concerning adoption.

4. The agency shall ensure that any child who is age 10 or older is present at the finalization hearing unless the child's presence is waived by the court.

Amended by R.1991 d.6, effective January 7, 1991.
See: 22 N.J.R. 2674(b), 23 N.J.R. 99(b).

In (c): revised text adding new (c)1i-iii, deleting and replacing (c)2-4 with new (c)2-8. New text clarifies and expands requirements that adoption agencies must follow when conducting an "Adoption Complaint Investigation."

Amended by R.1992 d.514, effective December 21, 1992.
See: 24 N.J.R. 3500(a), 24 N.J.R. 4552(a).

Home visit schedule at (a)2i revised to accommodate court backlogs; (b) deleted and new (b) added, regarding signature of consents; explanation required of agency if adoption not completed within two years after placement.

Amended by R.1995 d.431, effective August 7, 1995.
See: 27 N.J.R. 661(a), 27 N.J.R. 2922(a).

In (c), provision of services as part of an Adoption Complaint Investigation deleted; report to court for adoption finalization to include statement of payments made by adoptive parents for medical, living, shelter and counseling expenses.

Amended by R.2011 d.245, effective October 3, 2011.
See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

Rewrote the introductory paragraph of (a); in (a)2iii(1) and (a)3iii(1), inserted "the lifestyle and"; in (a)2iii(1), inserted ", civil union, domestic partnership"; in (a)3iii, inserted "in the child's record"; in (a)3iii(1), inserted ", civil union, domestic partner"; in (a)3iii(4), deleted "and" from the end; in (a)3iii(5), substituted "; and" for a period at the end; added (a)3iii(6); and in (c) and (d), substituted "Office of Licensing" for "Bureau".

10:121A-5.9 Post-adoption services

(a) After the child has been legally adopted, the agency shall provide the opportunity for the clients to return voluntarily to the agency for services relating to adoption only after verifying the identity of the person making the request.

(b) An agency shall provide the following post-adoption services:

1. Storing updated information provided by the birth parent(s), adoptee or adoptive parent(s) with the medical information form, as specified in N.J.A.C. 10:121A-3.6(d)6;

2. Upon request and if available, adoptive parents, birth parents and adult adoptees shall be provided with written information on the non-identifying characteristics and background of the adoptee and the adoptee's birth family. This information shall include, but not be limited to:

- i. Age or date of birth;
- ii. Circumstances surrounding the placement;
- iii. Religion;
- iv. Education;
- v. Nationality/ethnic background;
- vi. Employment history;
- vii. Medical history; and
- viii. Talents or hobbies.

3. Information about and referral to community resources, such as other counseling services, support groups, adoption registries, or sources of personal information that may be useful to adoptees, birth parents, or adoptive parents, or their relatives.

(c) An agency should counsel members of the birth family, adoptive family, or minor and adult adoptees in the following situations:

1. When there is continued interest in background information about any other party involved in the adoption; or

2. When any party involved in the adoption is having difficulty in personal and/or social adjustment to the extent that it is related to the adoption.

(d) For a foreign adoption, as specified at N.J.A.C. 10:121A-1.5(b)2, the agency shall conduct at least one visit to the home within 30 days after the child has entered the United States with the adoptive family and shall comply with each country's supervision and visitation requirements and relevant requirements of the Hague Convention on Intercountry Adoption when the child has entered the United States with the adoptive family.

Amended by R.1992 d.514, effective December 21, 1992.
See: 24 N.J.R. 3500(a), 24 N.J.R. 4552(a).

Information to be provided specified further at (b)2.
Amended by R.1995 d.431, effective August 7, 1995.
See: 27 N.J.R. 661(a), 27 N.J.R. 2922(a).

In (c), agency counseling of birth or adoptive families and minor or adult adoptees made mandatory.

Amended by R.2011 d.245, effective October 3, 2011.
See: 42 N.J.R. 1965(a), 43 N.J.R. 2600(a).

Added (d).

10:121A-5.10 Searches

(a) An agency that conducts searches on behalf of adult adoptees, birth parents when the adopted child is 18 years of age or older, or adoptive parents when the child is under 18 years of age, shall establish a written policy that outlines the procedures regarding confidentiality as specified in N.J.A.C. 10:121A-3.6(a)1 through 4 and the extent to which searches are conducted. This policy shall also include a fee schedule for conducting the search and time frames for completing a search.

(b) A search shall include, but not be limited to:

1. A review of the agency record for background information on the birth or adoptive family, including:

- i. The last known address;
- ii. Names of the male/female members;
- iii. Social Security numbers;
- iv. Occupations and addresses of places of employment;
- v. Military services, if known;
- vi. Clubs or union affiliations, if known;
- vii. Names of schools and/or colleges that were attended, if known; and
- viii. Dates and places of marriages and deaths.

(c) When the information in the agency record is sufficient to complete a search, the search shall also include:

1. A review of current telephone books on a Statewide basis, and a review of previously published telephone books on a Statewide basis, if accessible, or utilization of a telephone information service provided that the adult adoptee, birth parents or adoptive parents agree to such a service;

2. Sending a "blind" letter to the Social Security Administration for subsequent mailing to family members;

3. Contacting military, union, employment and/or club affiliation;

4. Contacting high school or college alumni offices;

5. Contacting professional licensing boards;

6. Contacting the church where the adopted child was christened/baptized;

7. Contacting the local post office to check old addresses;

8. Contacting cemeteries, when the records indicate a deceased family member;

9. Contacting the local library or town hall to check on voter registration information;

10. Checking tax or real estate records; and

11. Sending letters to the last known addresses of all family members.

(d) The agency shall document and maintain on file all the aspects of a search as specified in (b) and (c) above that were undertaken on behalf of the adult adoptees, birth parents or adoptive parents.

(e) The agency shall provide a handbook or pamphlet to each adult adoptee, birth parent and adoptive parent that outlines the range of services that may be included in a search, the confidentiality rights/responsibilities of all parties that are involved in the search and the costs associated with the search.

New Rule, R.1992 d.514, effective December 21, 1992.

See: 24 N.J.R. 3500(a), 24 N.J.R. 4552(a).

Amended by R.1993 d.532, effective November 1, 1993.

See: 25 N.J.R. 3415(a), 25 N.J.R. 4932(a).

Case Notes

Good cause requirement for adoptive adult to obtain information regarding natural parents. *Backes v. Catholic Family & Community Services*, 210 N.J.Super. 186, 509 A.2d 283 (Ch.Div.1984).