

(e) When the foster child or parent has requested removal, the Division representative shall discuss the request with supervisory staff. The Division shall make the decision within five days of the request. The Division representative shall inform the foster child or parent of the decision and shall remove the foster child within 15 days of the original request when it is determined that removal will occur.

(f) The Division representative shall document in the child's record and foster home record, the decision to remove or not remove the foster child, including the reasons.

**10:122E-2.4 Removal due to criminal conviction or domestic violence**

(a) The Division shall remove the foster children from the foster home when any foster parent or household member has a finding of domestic violence as defined in N.J.S.A. 2C:25-1 et seq., or when any foster parent or household member has been convicted of a crime of violence or a disorderly persons offense on the basis of an act of violence against any child or against a family member, or of a crime of a sexual nature or of any other act of a similarly serious nature.

(b) The office manager shall determine whether to:

1. Remove the foster children from the foster home when any foster parent or household member has been convicted of a criminal or disorderly persons offense involving crimes not cited in (a) above; or
2. Recommend to the Division Director that the foster children continue to be placed in the foster home.

(c) Only the Division Director may approve continued placement of foster children in the foster home under the circumstances listed in (b) above.

(d) The determination made by the office manager in (b) above and by the Division Director in (c) above shall be based upon the criteria listed in N.J.A.C. 10:122E-2.5(a).

**10:122E-2.5 Considerations in deciding whether or not to remove**

(a) The Division shall consider the following points when deciding whether to remove a foster child, in emergency and non-emergency situations:

1. The age of the foster child;
2. The length of stay in this foster home;
3. The relationship between the foster child and the foster family;
4. The number and impact of prior moves on the foster child;
5. The foster child's adjustment to the extended foster family and community;

6. The foster child's expressed wishes;

7. The foster family's history with the Division and of successful parenting;

8. The availability of support services to maintain the placement;

9. The willingness of the foster family and the foster child to work to overcome problems;

10. The child's injuries for which neither the foster family nor the child can offer a reasonable explanation;

11. The foster family's cooperation or lack of cooperation with any child abuse and neglect investigation;

12. The child's allegations of child abuse or neglect; and

13. The location of the foster child's siblings and the ability to keep them together or reunite them or facilitate visits.

(b) A foster child may be removed temporarily from a foster home before or during a child abuse or neglect investigation. If the Division representative makes a finding of either not substantiated or unfounded (as defined in N.J.A.C. 10:129A-3.3(a)), the Division shall use the criteria listed in (a) above to determine whether the foster child who has been removed will be returned to the foster home.

Amended by R.1998 d.64, effective January 20, 1998.

See: 29 N.J.R. 4275(a), 30 N.J.R. 492(b).

In (a), substituted references to children for references to abused or neglected children; and in (b), substituted "Division representative makes a finding of either not substantiated or unfounded (as defined in N.J.A.C. 10:129A-3.3))" for "allegation of child abuse or neglect is not substantiated".

**10:122E-2.6 Notification**

(a) The Division representative shall notify each parent who retains legal rights to the child and any relative who visits, when the foster child will be removed or has been removed in an emergency.

(b) The Division representative shall notify the Deputy Attorney General responsible for the case when a foster child will be removed or has been removed in an emergency when:

1. The foster child is the subject of a case in litigation; or
2. Commencement of guardianship litigation for the foster child is imminent.

(c) The Division representative shall notify the Child Placement Review Board and the family part of the Chancery Division of the Superior Court when there is a change in placement of any foster child known to the court. The Division representative shall notify the foster child's Law Guardian, if any, when the foster child is removed from a foster home.

(d) The Division representative who removes the foster child shall notify each other Division representative who supervises a foster child in the foster home about the removal.

(e) The Division representative shall inform the foster parent immediately of the removal and the reasons for removal if the foster child was not removed directly from his or her physical care. The Division representative shall also inform the child's parent as soon as possible after the child is placed. If there is a difference of opinion between the foster parent and the Division regarding the removal, the Division representative shall inform the foster parent and the parent in writing of the reasons for the decision, whether the foster parent may have the right to appeal, and that to appeal the removal, the procedures in N.J.A.C. 10:120A-3 shall be followed.

Amended by R.1998 d.64, effective January 20, 1998.

See: 29 N.J.R. 4275(a), 30 N.J.R. 492(b).

In (e), substituted a reference to N.J.A.C. 10:120A-3 for a reference to N.J.A.C. 10:122E-2.7.

### 10:122E-2.7 Disagreements

The Division representative, the foster child and the foster family shall try to resolve any disagreement before the foster child is removed, unless an emergency removal is necessary.

Amended by R.1998 d.64, effective January 20, 1998.

See: 29 N.J.R. 4275(a), 30 N.J.R. 492(b).

Deleted former (b) through (e).

## SUBCHAPTER 3. CLOSURE OF A FOSTER HOME

### 10:122E-3.1 Reasons for closure of a foster home

(a) The Division shall close a foster home when it is determined that the foster home cannot provide proper and safe care to children or is no longer a viable placement resource for children.

(b) The determination for closure shall be based upon at least one of the following:

1. The foster parent requests that the home be closed;
2. The Division substantiates abuse or neglect of a child in the foster home by a foster parent or household member;
3. The foster family violates any Division rule through action or inaction which may cause or has caused physical or emotional harm to a foster child;
4. The foster family does not meet the requirements of N.J.A.C. 10:122C, Approval of Foster Homes;

5. A foster parent or household member has a finding of domestic violence as defined in N.J.S.A. 2C:25-1 et seq., or is convicted of a crime or disorderly persons offense;

6. The Division learns that the foster parent has given false information on the foster home application or other documents which impacts on the Division's ability to assess or reassess the foster home;

7. The foster home has been inactive for a period of one year;

8. The foster family has not met the standards agreed to by the end of an established time frame. See N.J.A.C. 10:122C-2.18(a), Division action when a foster home does not comply with written agreement; or

9. The foster family moves out of the State of New Jersey.

### 10:122E-3.2 Considerations for closing a foster home

(a) Before closing a foster home, the Division shall consider the reasons for the proposed closure, the Division's role in those circumstances and the feasibility of maintaining the home as a resource, and shall specifically consider the following:

1. The foster parent's desire to continue foster parenting;
2. Recommendations concerning closure made by Division representatives and others who have knowledge of the foster family based upon formal consultation and discussion, including those directly responsible for the supervision of the children placed in the foster home and responsible for the assessment of the foster home;
3. The circumstances surrounding the incident or conditions that led to the proposed closure, including any mitigating factors and any contributions that the Division may have made to creating, perpetuating or exacerbating the situation;
4. The willingness of the foster family to work with the Division to ameliorate factors contributing to the problem, and the feasibility of doing so;
5. The foster family's history with the Division as it relates to their cooperativeness, forthrightness, ability to resolve problems based upon previous problems in the foster home, and history of successful parenting;
6. The quality of care provided to current and former children placed in the foster home;
7. The length of time that the children currently in foster care have been in the foster home;
8. The potential impact of closure and removal on the well-being of any foster child currently placed in the foster home, based upon consultation with all Division representatives directly responsible for providing supervision to the foster children; and