

Draft Host Family Home Regulations

Title 18 of the New York Code Rules and Regulations is amended to add a new Part 444 to read as follows:

Part 444 Host Family Homes

Table of Contents

Subpart A - Establishment

444.1 Establishment

444.2 Definitions

444.3 Non-discriminatory Treatment

Subpart B - Rights of Parents and Required Information

444.4 Information to the Parent

444.5 Selection of Host Family Home Pursuant to Designation of Person in Parental Relation

Subpart C - Care and Rights of Children

444.6 Abuse/Maltreatment

444.7 Rights of Children

444.8 Discipline of Children

Subpart D - Administration of Host Family Home Program

444.9 Administration of the Host Family Home Program

444.10 Oversight and Monitoring by OCFS

444.11 Duties and Responsibilities of Host Family Home Agencies

444.12 Conditions of Approval of Host Home Agency Homes

449.13 Duties and Responsibilities of Host Family Homes

444.14 Information Provided to Host Family Home and Decision to Accept a Child

444.15 Home Study

444.16 Approval of Host Family Homes

444.17 Supervision of Homes by Host Family Home Agency

444.18 Revocation of Approval of Host Family Homes

444.19 Exceptions

Subpart A – Establishment of Host Family Homes

§ 444.1 Establishment

There is hereby established a host family home program to be approved and supervised by the New York State Office of Children and Family Services (OCFS). Such program shall be governed by the provisions of this Part.

§ 444.2 Definitions

- (a) *Parent* means a birth parent, or an adoptive parent with legal custody of the child who is considering entering into a designation of person in parental relation. In the event that both parents are considering entering into a designation of person in parental relation, the provisions of this part shall apply to both of them.
- (b) *Child receiving host family care* means a person under the age of 18 who remains in the legal custody of their parent(s)/guardian and is not in the care and custody or custody and guardianship of the commissioner of a local department of social services, a voluntary authorized agency, including a host family agency or OCFS. For purposes of this Part, the term “child” shall also include children if there is more than one child to receive host family home care.
- (c) *Host family home agency*, which for purposes of this Part shall be referred to as *Agency*, means an authorized agency, as defined in paragraph (a) subdivision 10 of section 371 of the Social Services Law, which: (i) has the specific corporate power or is empowered by law to place out a child in a host family home for the purpose of providing care, and (ii) such care is provided upon the approval and consent of the child’s parent(s), and (iii) such care is temporary based on a duly executed designation of “person in parental relation” in accordance with Title 15-A of Article 5 of the General Obligations Law. Such corporate authority must be approved by OCFS as required by Social Services Law 460-a before an agency may file with the New York State Department of State. A host family home agency may also provide additional services to families, including, but not necessarily limited to, arranging for parents and children to be cared for together in a host family home, and services to assist a family in need of day-to-day community-based support by peers.
- (d) *Host family care* means the temporary care of a parent and a child in an approved host family home or a child in an approved host family home identified by a host family home agency following the execution of a designation of a “person in parental relation” by the child’s parent authorizing such care in an informed way with the designated host family home in accordance with Title 15-A of Article 5 of the General Obligations Law and the provisions of this Part.
- (e) *Host family home* means a residence owned, leased, or otherwise under the control of either a person over the age of 21 or family who is an approved volunteer by an Agency.
- (f) *Host family home program* mean those supportive services provided to children and their families in accordance with the provisions of this Part for the purpose of: assisting a family in need of day-to-day community-based supports by peers, arranging for parents and children to be temporarily cared for together in a host family home, and/or temporarily supporting a family when a parent has determined that he/she is temporarily unable to care for their child and has knowingly made an informed agreement through a designation of a “person in parental relation” to allow a host family to care for his or her child as a way to avert the need for more formal child welfare intervention.
- (g) *Person in parental relation* pursuant to Title 15-A of Article 5 of the General Obligations Law.
- (h) *OCFS* means the New York State Office of Children and Family Services.

§444.3 Nondiscriminatory Treatment

- (a) An Agency providing a host family home program shall prohibit discrimination and harassment against prospective host family home applicants, host family home caregivers and the child or parents of a child seeking the services of or served by the Agency on the basis of race, creed, color, national origin, age, sex, sexual orientation, gender identity or expression, marital status, religion or disability, and shall take

reasonable steps to prevent such discrimination or harassment by staff and volunteers, promptly investigate incidents of discrimination and harassment, and take reasonable and appropriate corrective or disciplinary action when such incidents occur.

- (b) For the purposes of this section, the term *gender identity or expression* means having or being perceived as having a gender identity, self-image, appearance, behavior or expression whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the sex assigned to that person at birth. *Gender identity* refers to a person's internal sense of self as male, female, no gender or another gender, and *gender expression* refers to the manner in which a person expresses his or her gender through clothing, appearance, behavior, speech, or other means.

Subpart B – Rights of Parents and Required Information

§444.4 Information to the Parent

- (a) When a parent requests the assistance of an Agency to identify an approved host family home to care for the parent with their child or for the parent's child the Agency must offer the parent possible care options comprised of approved host family homes, to the extent possible, located in the community in which the parent and child currently reside.
- (b) When identifying a potential host family home, the Agency must consider the proximity of the host family home to the parents of the child in order that the parent/child visitation plan may be carried out if the child is cared for in the home without the parent.
- (c) When identifying a potential initial or any subsequent host family home for a child, the Agency should take into consideration the child's existing educational setting and the proximity of such setting to the potential host family home.
- (d) The Agency must provide the parent with the following information regarding any host family home under consideration by the parent for the care of the parent's child pursuant to an execution of a person in parental designation form to enable the parent to make an informed decision whether to agree to the care of the child by the host family home identified by the Agency:
 - (1) location and physical description of the host family home;
 - (2) family composition of the host family home;
 - (3) education and child care experience of the host family home caregivers; and
 - (4) approval history of the host family home.
- (e) At the time a parent is considering the option of a host family home, the Agency must provide information and referral services to the parent that includes available community social services resources designed to address the needs of the family. This requirement continues upon request of the parent should the parent execute a designation in parental relation.
- (f) Prior to the execution of a designation of "person in parental relation", as set forth in section 444.5 of this Part, the Agency must make a diligent effort to notify any parent with legal custody of the child or the child's legal guardian, as identified by the parent seeking assistance from the Agency in accordance with this Part.

§ 444.5 Selection of Host Family Home Pursuant to Designation of "Person in Parental Relation"

- (a) The child's parent must inform the Agency whether the child's parent agrees to have the child cared for by a host family home identified by the Agency pursuant to section 444.4 of this Part and selected by the child's parent pursuant to this section.
- (b) A child may not be cared for in an approved host family home unless and until the child's parent agrees to have the child cared for by the host family home offered to the parent by the Agency and the child's parent has executed a designation of "person in parental relation" in accordance with Title 15-A of Article 5 of the General Obligations Law and the provisions of this Part naming the person(s) authorized as a host family home as the child's caregiver.

- (c) A designation of “person in parental relation” may not be executed in accordance with this Part by a parent who is the subject of an open investigation of a report of suspected child abuse or maltreatment or of an open indicated case of child abuse or maltreatment.
- (d) The designation of “person in parental relation” must be read to the child’s parent by the Agency in the preferred language of the child’s parent, and the Agency must answer any questions raised by the child’s parent regarding the designation of “person in parental relation”.
- (e) The Agency must inform the child’s parent in writing of the right to consult with an attorney, other than an attorney employed by or otherwise affiliated with the Agency, before execution of the designation of “person in parental relation”.
- (f) The Agency must provide the parent with a list of available free or low-cost legal services for the parent and child.
- (g) The child’s parent(s) and the agreed upon identified host family home must be provided with a copy of the executed designation of “person in parental relation”.
- (h) The designation of “person in parental relation” must state the following subjects, terms and conditions:
 - (1) Initial term of care shall not exceed six (6) months, provided, however, that term of care pursuant to the designation of “person in parental relation” may be extended for additional six (6)-month periods upon the written consent of the child’s parent and the host family home and execution of an additional designation of “person in parental relation”.
 - (2) Visitation and contact rights of the child and the child’s parent and other relative(s) while the child is cared for in the host family home;
 - (3) Consents for medical care;
 - (4) Education of the child; and
 - (5) The right of the child’s parent to terminate the designation of “person in parental relation” at any time and for the immediate return of the child to such parent.
- (i) The designation of “person in parental relation” does not impose upon the host family home a duty to financially support the child pursuant to section 413 of the Family Court Act. The designation of “person in parental relation” must specify the terms of any financial arrangements for the care of the child, as agreed upon by the child’s parent and the host family home.
- (j) If the child to be cared for in a host family home is 14 years of age or older, the Agency must consult with such child regarding such initial care and any subsequent extensions.
- (k) The execution of a designation of “person in parental relation” shall not change any rights or obligation established by court order.

Subpart C Care and Rights of Children

§444.6 Abuse and maltreatment of children

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

§ 444.7 Rights of Children

Children cared for in a host family home must be afforded, at minimum, the following rights:

- (a) Every child has the right to enjoy freedom of thought, conscience, cultural and ethnic practice, and religion.
- (b) Every child has the right to receive adequate and appropriate food, clothing, and housing.
- (c) Every child has the right to live in clean, safe surroundings.
- (d) Every child has the right to participate in an educational program in accordance with existing law.

(e) Every child has the right to communicate with others outside the host family home, including but not limited to a parent, physician, attorney, or therapist the child may have.

(f) *Mail/Email*

- (1) A child cared for in a host family home has an unrestricted right to send or receive mail/email without prior censorship or prior reading.
- (2) Nothing contained in paragraphs (1) or (2) of this subdivision shall be construed to permit a child's use of mail/email for fraudulent, illegal, or illicit purposes.

(g) *Telephone*

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

§ 444.8 Discipline of Children

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

Subpart D Administration of Host Family Home Program

§444.9 Administration of the Host Family Home Program

- (a) Each Agency must maintain information on availability of an array of community-based services that may be available to assist families in crisis, and such organization may provide such services.
- (b) Each Agency must maintain and keep current and available a manual or manuals that clearly state the policies of such Agency with respect to the program it operates.
- (c) Each Agency must provide training to host families to prepare them to care for a child and maintain a meaningful relationship with the child's parent. Training shall include, but not be limited to, the legal rights of parent and child, cultural sensitivity, implicit bias and how to provide trauma informed care.
- (d) The Agency must establish a procedure to review and evaluate the backgrounds of and information supplied by applicants for professional, paraprofessional, and volunteer positions with the Agency who have the potential for regular and substantial contact with children served by the Agency.
- (e) Such procedure must require that each applicant for a professional, paraprofessional or volunteer position submit a sworn statement indicating whether, to the best of the applicant's knowledge, the applicant has ever been convicted of a crime in New York or in any other jurisdiction.
- (f) Such procedure must require each applicant for an employment position with the Agency as authorized by section 378-a of the Social Services Law, to obtain criminal history background checks for prospective employees who will have the potential for substantial, unsupervised or unrestricted physical contact with children.

- (1) If an applicant has been convicted of a crime, the Agency must determine, in accordance with any guidelines or regulations issued by OCFS, whether to hire or use the person as an employee.
- (2) If the Agency determines that it will hire or use the person, the Agency must maintain a written record, as part of the application file for employment or other personnel record of such person, of the reason(s) why such person was determined to be appropriate and acceptable as an employee.

(g) Each Agency must apply for and maintain approval issued by OCFS, which among other things indicates compliance with all relevant laws, regulations and policies of OCFS.

§ 444.10 Oversight and Monitoring by OCFS

- (a) OCFS shall oversee the host family home program as established by this Part.
- (b) OCFS shall require corrective action where appropriate by any Agency operating a host family home program.
- (c) OCFS is will take enforcement action for non-compliance with the provisions of this Part, including, but not limited to, revoking the approval for an Agency for violation of any of the provisions of this Part or the policies of OCFS for such programs. Host family home agencies shall provide OCFS with information, documents, and access to homes and programs, as requested, in the time and manner as requested by OCFS.

§ 444.11 Duties and Responsibilities of Host Family Home Agencies

- (a) The Agency must have policies and procedures in place to adequately provide that parents who seek to place their children in a host family home on a temporary basis are making an informed decision, including that parents are informed that they have legal rights, are not acting as a result of coercion, and are not incapacitated. Such policies and procedures shall include, but not be limited to:
 - (1) Providing information to such parent as required pursuant to section 444.4 of this part
 - (2) Providing information to such parent on where such parent may obtain free or low-cost legal representation;
 - (3) Information on available preventive services or other services within the community that may assist the parent
 - (4) Verifying that the parent is not seeking to execute a designation of “person in parental relation” as a result of coercion;
 - (5) Inform them of their legal rights in executing a “person in parental relation” form, including but not limited to the parent’s ability to revoke the form at any time during the authorization period;
 - (6) That the parent is informed that they maintain legal custody of their child; and
 - (7) That the parent is informed on how to contact their child while their child remains in a host family home.
- (b) Have policies and procedures that address the rights of children in host family homes. Including that certain rights may not be restricted or denied to children by the host family home, as described within this Part.
- (c) Seek to recruit volunteer individuals with the ability and motivation to care for children in need of a substitute caregiver.
- (d) The Agency must:
 - (1) Inform persons who express an interest in volunteering to be a host family home that each applicant and household member over the age of 18 must obtain his or her criminal history from the New York State Division of Criminal Justice Services and provide such history to the Agency prior to approval as a host family home;
 - (2) Inform persons who express an interest in volunteering to be a host family home that the Agency must inquire of OCFS whether any person who applies for approval to be a host family home is the subject of an indicated report of child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and Maltreatment and inquire of the Justice Center for the Protection of People with Special Needs whether the applicant is listed on the register of substantiated

Category One cases of abuse or neglect maintained by the Justice Center for the Protection of People with Special Needs;

- (3) Require applicants to complete the forms that are necessary for the Agency to inquire of OCFS whether the applicant is the subject of an indicated child abuse or maltreatment report on file with the Statewide Central Register of Child Abuse and Maltreatment and to inquire of the Justice Center for the Protection of People with Special Needs whether the applicant is listed on the register of substantiated Category One cases of abuse or neglect maintained by the Justice Center for the Protection of People with Special Needs;
- (4) Inquire of OCFS whether the applicant is the subject of an indicated report of child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and Maltreatment and inquire of the Justice Center for the Protection of People with Special Needs whether the applicant is listed on the register of substantiated Category One cases of abuse or neglect maintained by the Justice Center for the Protection of People with Special Needs;
- (5) Determine, on the basis of the information it has available and in accordance with guidelines developed by OCFS, whether to approve the application if an applicant is the subject of an indicated report of child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and Maltreatment and/or is listed on the register of substantiated Category One cases of abuse or neglect maintained by the Justice Center for the Protection of People with Special Needs. If the Agency determines that it will approve the applicant to care for a child, the Agency must maintain a written record, as part of the application and home study file of such applicant, of the reason(s) why the applicant was determined to be appropriate and acceptable to care for a child;
- (6) If the Agency denies the Host Family Home, the Agency must furnish the Host Family Home with a written statement setting forth its reason(s) for the denial.
- (7) Permit a joint application to be submitted by married individuals living in the same household;
- (8) Utilize the application form submitted by the applicant for approval as a host family home to elicit information including but not limited to the following:
 - (i) Age
 - (ii) Health
 - (iii) Physical functioning
 - (iv) Income
 - (v) Employment of applicants
 - (vi) Information regarding the physical home of the prospective host family home
 - (vii) Names of all other household members or anyone who will be sharing living accommodations with the child. This includes the names of all persons 18 years of age or older residing in the home whether living their full-time or intermittently.
- (9) Require that the applicant for approval as a host family home submit all of the following information:
 - (i) Names, addresses and telephone numbers of at least three personal references, other than relatives, who can attest to the applicant's character, habits, reputation and personal qualifications and which must be verified in accordance with this section
 - (ii) A sworn statement by the applicant indicating whether, to the best of the applicant's knowledge, the applicant or any other person over the age of 18 currently residing in the home has ever been convicted of a crime in New York State or any other jurisdiction. If an applicant discloses in the sworn statement that the applicant or any other person over the age of 18 currently residing in the home has been convicted of a crime, the Agency must determine whether to approve such applicant. If the Agency determines that it will approve the applicant to care for a child, the Agency must maintain a written record, as part of the application and home study file of such applicant, of the reason(s) why the applicant was determined to be appropriate and acceptable to care for a child.
 - (iii) A copy of the applicant's and adult household member's criminal history information received from the New York State Division of Criminal Justice Services
- (10) Require a report of a physical examination conducted not more than one year preceding the date of the host family home application by physician, physician assistant, nurse practitioner or

other licensed and qualified health care professional, as appropriate, regarding the general health of the members of the applicant's home that indicates the absence of a communicable disease, infection or illness or any physical or mental condition that might affect the proper care of a child cared for in a host family home or the presence of any identified affliction does not pose a risk to the health or safety of a child cared for in a host family home.

- (11) Establish a procedure to review and evaluate the backgrounds of and information supplied by all applicants and household members 18 years of age or older so to determine their appropriateness for provision of host family home care and to so inform the applicant of the decision in writing.
- (12) Prior to the execution of a designation of "person in parental relation", as set forth in section 444.5 of this Part, notify any relatives identified by the parent seeking assistance from the Agency in accordance with this part, where such parent has requested that such relative of the child be notified.

§ 444.12 Conditions for Approval of the Host Family Home Agency

- (a) An Agency may not operate a host family home program unless and until it receives the written approval of OCFS.
- (b) An authorized agency desiring to operate a host family home program must apply to OCFS for authorization in a manner as required by OCFS, including, but not limited to, the provisions of Part 482 of this Title.

§ 444.13 Duties and Responsibilities of Host Family Homes

- (a) Approved host family home providers must execute an agreement with the Agency that approved the host family home stipulating that the host family home will:
 - (1) enable children cared for in the host family home to mingle freely and on equal footing with other children in the household and in the community, to be accepted as members of the household and to share in its pleasures and responsibilities;
 - (2) arrange for children of school age to attend school regularly, as required by the Education Law;
 - (3) never leave children under the age of 10 years alone without competent adult supervision, nor children above that age except as might reasonably be done by a prudent parent in the case of his or her own children;
 - (4) except as permitted by the Agency, never use a host family home to care for more than two infants under 2 years of age, including the host family home provider's own children, except in those cases where the host family home provider has demonstrated the capacity to do so and a sibling or half-sibling group would otherwise have to be separated;
 - (5) provide children with nutritious, wholesome, and prepared food, served at regular hours. Children cared for in the host family home must be permitted to eat meals in the same manner as other family members with due consideration to their age and special needs;
 - (6) keep the clothing of children cared for in the host family home in condition of repair and cleanliness;
 - (7) provide for each child cared for in the host family home with sufficient individual towels and toilet articles suitable for the child's age and gender and individual drawer and closet space;
 - (8) provide a suitable, well-lighted place for children of school age for home study;
 - (9) recognize and respect the religious wishes of the parent of the child cared for in the host family home, and endeavor to protect and preserve their religious faith, including making provision for the child to attend services conducted in the child's religious faith and to receive instruction in such faith, unless the parent expressly requests otherwise in writing;
 - (10) endeavor to cooperate with the Agency and inform such agency of any incident or event that affects or may affect the child's adjustment, health, safety, or well-being;
 - (11) provide a family atmosphere of acceptance, kindness and understanding, and endeavor to give each child the support, attention, and recognition that facilitates adjustment to the host family home and that promotes the child's normal development;

- (12) permit an authorized representative of the Agency to enter the host family home to investigate complaint regarding care of such child;
- (13) inform the Agency of any changes in family composition, or number of persons residing in the home and any substantive changes in the physical home comprising the host family home;
- (14) cooperate with the parent/child's plan to see and/or talk with each other, as established by the child's parent and the host family home; and
- (15) cooperate with the Agency and the child's parent on the return of the child to the parent upon termination of the designation of "person in parental relation".

§444.14 Information Provided to Host Family Home and Decision to Accept a Child

- (a) Before any child enters a host family home, the Agency must provide the host family home with appropriate knowledge and skills to provide for the needs of the child. Such training must be continued, as needed, after the child is being cared for in the host family home.
- (b) In order that the host family home make an informed decision to undertake the temporary care of a child, after the parent has identified a host family home the parent deem suitable, the Agency shall provide the host family home with the following information:
 - (1) estimated length of time child(ren) or family may need to be cared for in the host family home and the assumption and knowledge on which the estimate is based;
 - (2) overall health of children or adults to reside in the host family home including any ongoing condition that require treatment or ongoing services;
 - (3) the child's school and educational experiences;
 - (4) the relationship of the child and the child's parent; and
 - (5) plans for visitation of and by the child's family, including probable location of such visits if the parent is not residing within the host family home.
- (c) Following the receipt of the information set forth in subdivision (b) of this section, the host family home must inform the Agency whether the host family home is willing and able to accommodate the child or children for care in accordance with this Part.

§ 444.15 Home Study

- (a) Prior to a host family home receiving a child for care, a home study must be completed, and the home must be approved as a host family home.
- (b) A home study and evaluation of the members of household must determine compliance with all of the following criteria for approval:
 - (1) *Age*. Each applicant must be over the age of 21.
 - (2) *Health*. Each member of the applicant's household must be in good physical and mental health and free from communicable diseases. However, physical handicaps or illness of applicants or members of their household must be a consideration only as they affect the ability to provide adequate care to a child receiving host family care or may affect an individual child's adjustment to the family. Applications must be evaluated on an individual basis with assistance of a medical consultant, when appropriate.
 - (3) *Employment*. Employment of an approved host family home caregiver outside the home must be permitted when there are suitable plans for the care and supervision of the child at all times, including after school and during the summer. Such plans must be made part of the host family home application record and must be received prior to approval by the Agency. Such plans must be updated annually and immediately upon substantial change in employment circumstances.
 - (4) *Character*. As set forth above, each applicant for approval must provide the Agency with the names of three persons who may be contacted for references. The Agency must seek signed statements from these persons attesting to the applicant's moral character, mature judgment, ability to manage financial resources, and capacity for developing a meaningful relationship with children, or utilize in-person interviews attesting to the same.

(5) *Ability and motivation.* The Agency must explore each applicant's understanding of the role of a host family home and the applicant's ability, motivation, and psychological readiness to be a host family home. The Agency also must explore the understanding of the other members of the household about being a host family home and their concept of the role within the family of the child receiving host family care.

- (c) The Agency must orient applicants who have been accepted for a home study to:
- (1) the social, family, and personal challenges that lead to the need for the care of a child in a host family home;
 - (2) the problems and reactions of children upon separation, and the function and responsibility of the host family home in relation to the child, the child's parents, and Agency staff;
 - (3) the nature of the relationship of Agency staff to the host family home and children, including definitions of the function and responsibilities of Agency staff assigned to the children receiving host family home care and their families;
 - (4) the rights and responsibilities of host family home volunteers, as set forth in this Part; and
 - (5) the rights and responsibilities of the child's parents, the host family home and the Agency regarding the designation of a "person in parental relation" in accordance with Title 15-A of Article 5 of the General Obligations Law, including, but not limited to, the right of a parent to terminate such designation at any time and the return of such child to the parent upon termination.
- (d) The Agency must develop a record for each applicant and each approved host family home that must include, but not necessarily be limited to:
- (1) the application;
 - (2) medical report(s)
 - (3) summary of the home study;
 - (4) interviews with applicants;
 - (5) personal references;
 - (6) record listing the names of children cared for in the home with the dates of the children's entry into and movement from the home;
 - (7) summary of each evaluation of the host family home;
 - (8) physical description of the home, including allocation of space;
 - (9) copies of correspondence with the applicant and the host family home;
 - (10) reports from OCFS that notify the Agency whether the applicant for approval is the subject of an indicated report of child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and Maltreatment, and information from the Justice Center for the Protection of People with Special Needs whether the applicant is listed on the register of substantiated Category One cases of abuse or neglect; and
 - (11) the response from the New York State Division of Criminal Justice Services regarding the criminal history of the applicant and any adult household member over the age of 18 residing in the home of the applicant.

§444.16 Approval of Host Family Homes

- (a) Host family homes must meet the following health and safety standards requirements:
- (1) The host family home must be in good condition and present no hazard to the health and safety of children.
 - (2) The host family home must be in substantial compliance with all applicable state and local laws, ordinances, rules, and regulations.
 - (3) The physical space, construction and maintenance of the host family home and premises must be in good repair and kept in a sufficiently clean and sanitary condition so that the physical well-being as well as a reasonable degree of physical comfort is assured to the members of the host family home.
 - (4) Separate bedrooms are required for children of the opposite sex over 7 years of age, unless the children are siblings or half-siblings sharing the same bedroom and the alternative sleeping

- arrangement is consistent with the health, safety, and welfare of each of the siblings or half-siblings and is necessary to keep the siblings or half-siblings together in the same host family home.
- (5) Not more than three persons may occupy any bedroom where children placed in the host family home sleep, unless the children are siblings or half-siblings and the occupancy is consistent with the health, safety, and welfare of each of the siblings or half-siblings and is necessary to keep the siblings or half-siblings placed together in the same host family home.
 - (6) No bed may be located in any unfinished attic or basement.
 - (7) No child above the age of 3 may sleep in the same room with an adult of the opposite sex unless it is their parent.
 - (8) Each child must have sleeping space of sufficient size for the safety, comfort, and privacy of the child. Each child must have a separate bed or crib of sufficient size and cleanliness for the comfort and well-being of the child with waterproof covering, if needed, and suitable bedding adequate to the season. Bunk beds may be used.
 - (9) There must be an adequate and safe supply of water for drinking and household use. Water from wells, springs, or other private sources must be protected against contamination. There must be provision for hot water for washing and bathing.
 - (10) The dwelling must have window barriers, including window screens, guards, and/or stoppers above the first floor of the host family home.
 - (11) Heating apparatus must be safe and adequate to provide for the reasonable comfort of children in the host family home.
 - (12) Adequate bathing, toilet, and lavatory facilities must be provided and kept in sanitary condition.
 - (13) The host family home must be free from fire hazards and equipped with at least one smoke detector and carbon monoxide detector.
 - (14) No approved host family home may rent rooms to lodgers or boarders or conduct any business on the premises that might adversely affect the welfare of children, unless permitted by the Agency that approved the host family home.
 - (15) All firearms, rifles, and shotguns, as defined in section 265.00 of the Penal Law, must be securely stored and must be maintained in compliance with applicable state and local standards regarding the licensing, storage, and maintenance of such weapons.

§ 444.17 Supervision of Host Family Homes

- (a) Supervision of children cared for in the host family home by the Agency must be maintained through the provision of contacts and conferences as set forth in this section.
- (b) The Agency must conduct contacts with the child and the host family home and conferences with the host family home as follows:
 - (1) There must be an initial contact with a child(ren) in the host family home within 48 hours of the child(ren) entering the host family home. The initial contact within 48 hours must take place in the host family home. The focus of the initial contact with the child must include the safety of the child and determining the child's reaction to separation from the child's parent(s) and the child's adjustment to care in the host family home.
 - (2) Thereafter, the Agency must have contacts with the child and host family home at least every 30 days, and more frequently as necessary, as long as the child remains in the host family home under the designation of "person in parental relation" between the child's parent or parents and the host family home. At least two of the monthly contacts every 90 days must be at the child's host family home. The child should be spoken to by the Agency separate and apart from the host family home provider.
 - (3) The Agency must arrange for conferences with the host family home regarding acute problems, emergencies, or crisis situations whenever necessary.

§ 444.18 Revocation of Approval of Host Family Homes

- (a) Agency practice and procedure for revocation of the approval of a host family home must include:
 - (1) Revocation of an approved host family home may be based upon such factors as failure to meet one or more of the criteria for approval or upon the health or safety of the child cared for in the host family home or failure to immediately honor the request of a parent to revoke the “person in parental relation” designation form; and
 - (2) The reason(s) for revocation must be specified in a letter from the Agency to the host family home postmarked at least 20 days prior to revocation.
- (b) When the approval of a host family home is revoked, the parent of the child cared for by the host family home must be notified immediately and in writing by the Agency so alternate arrangements for the child may be made by the parent.

444.19 Exceptions

Exceptions to the provisions of this Part, other than statutory requirements, may be approved by OCFS if requested by the Agency in writing and upon determination by OCFS that such exception is (a) in the best interests of the child, (b) is consistent with the health, safety and welfare of the child, and (c) the child’s parent have provided written consent if able and applicable.

