

CHAPTER 3700. FOSTER FAMILY CARE AGENCY

INTRODUCTION

- Sec.
- 3700.1. Applicability.
- 3700.2. Goal.
- 3700.3. Legal base.
- 3700.4. Definitions.
- 3700.5. Waivers.
- 3700.11. [Reserved].
- 3700.12. [Reserved].
- 3700.13. [Reserved].
- 3700.14. [Reserved].
- 3700.21. [Reserved].

PROGRAM REQUIREMENTS

- 3700.31. Number of children allowed in a foster family home.
- 3700.32. [Reserved].
- 3700.33. [Reserved].
- 3700.34. Family service plan.
- 3700.35. [Reserved].
- 3700.36. Discipline policies.
- 3700.37. [Reserved].
- 3700.38. Orientation and information for foster families.
- 3700.39. [Reserved].

HEALTH CARE REQUIREMENTS

- 3700.51. Medical and dental care.
- 3700.52. [Reserved].

REQUIREMENTS FOR FFCA APPROVAL OF FOSTER FAMILIES

- 3700.61. Transfer of approval authority.
- 3700.62. Foster parent requirements.
- 3700.63. Foster child discipline, punishment and control policy.
- 3700.64. Assessment of foster parent capability.
- 3700.65. Foster parent training.
- 3700.66. Foster family residence requirements.
- 3700.67. Safety requirements.
- 3700.68. [Reserved].
- 3700.69. Annual reevaluation.
- 3700.70. Temporary and provisional approvals of foster families.

3700-1

- 3700.71. Foster family file.
3700.72. Foster family approval appeals.
3700.73. Foster parent appeal of child relocation.

Authority

The provisions of this Chapter 3700 issued under Articles II, VII and IX of the Public Welfare Code (62 P. S. §§ 201—211, 701—774 and 901—922), unless otherwise noted.

Source

The provisions of this Chapter 3700 adopted October 1, 1982, effective October 1, 1982, 12 Pa.B. 3669, unless otherwise noted.

Cross References

This chapter cited in 55 Pa. Code § 3130.5 (relating to definitions); and 55 Pa. Code § 3800.3 (relating to exemptions).

INTRODUCTION

§ 3700.1. Applicability.

- (a) This chapter applies to:
- (1) An agency operated by a person, organization, corporation or society, public or private, for profit or not-for-profit, which approves or supervises foster families or provides foster family care.
 - (2) An individual providing foster family care to children placed by an approved foster family care agency.
- (b) This chapter does not apply to agencies and homes licensed or approved by the Department's Offices of Mental Health and Mental Retardation.

Authority

The provisions of this § 3700.1 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.1 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (86949).

§ 3700.2. Goal.

The goal of this chapter is to reduce risk to children in placement; to protect their health, safety and human rights; to establish minimum requirements for the operation of a foster family care agency; and to establish minimum requirements to be applied by foster family care agencies when approving and supervising foster families.

Authority

The provisions of this § 3700.2 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.2 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (86949).

Notes of Decisions*Authority*

Section § 3700.61 delegates the authority to inspect for compliance with requirements covering health, 55 Pa. Code § 3700.51, safety, 55 Pa. Code § 3700.67, and necessary facilities, 55 Pa. Code § 3700.66, and approve foster homes to an approved foster family care agency as defined in 55 Pa. Code § 3700.4, so as to effectuate the purposes of the regulations set out in 55 Pa. Code § 3700.2. *In re Lowry*, 464 A.2d 333 (Pa. Super. 1983).

§ 3700.3. Legal base.

The legal base of this chapter is Articles II, VII and IX of the Public Welfare Code (62 P. S. §§ 201—211, 701—774 and 901—922); 42 Pa.C.S. §§ 6301—6365 (relating to the Juvenile Act); and the Child Protective Services Law (23 Pa.C.S. §§ 6301—6384) (relating to the Child Protective Services Law).

Authority

The provisions of this § 3700.3 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.3 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (86950).

§ 3700.4. Definitions.

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

Child—An individual who:

- (i) Is under 18 years of age.
- (ii) Is under 21 years of age, committed an act of delinquency before reaching 18 years of age and remains under the jurisdiction of the juvenile court.
- (iii) Is under 21 years of age, was adjudicated dependent before reaching 18 years of age, and while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed.

County agency—The single county children and youth social services agency.

Department—The Department of Public Welfare of the Commonwealth.

Family service plan or service plan—A written document describing short- and long-range objectives for the provision of care and services to a child and his family, prepared by the placing agency or individual.

Foster family—The living unit, including the foster family residence and foster parent, approved by a foster family care agency to provide foster family care to children.

Foster family care—Residential care and supervision provided to a child placed with a foster family.

Foster family care agency or *FFCA*—A public or private agency which recruits, approves, supervises and places children with foster families.

Foster family residence—The primary domicile of a foster parent. The residence may be owned or rented by the foster parent; or it may be provided to the foster parent by the FFCA.

Foster parent—An individual responsible for providing foster family care to children placed by an FFCA.

Individual Service Plan or *ISP*—A description of the activities which implement the family service plan.

Licensure or *approval*—The certification of FFCA and foster family compliance with this chapter.

Passive physical restraint—The least amount of direct physical contact required to prevent immediate harm to the child or others.

Placement—Twenty-four hour out-of-home care and supervision of a child.

Placing agency—The agency or individual with legal authority to refer or place a child for foster family care. Included are courts, county children and youth social service agencies and parents.

Authority

The provisions of this § 3700.4 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.4 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (86950) to (86951).

Notes of Decisions

Section 3700.61 delegates the authority to inspect for compliance with requirements covering health, 55 Pa. Code § 3700.51, safety, 55 Pa. Code § 3700.67, and necessary facilities, 55 Pa. Code § 3700.66, and approve foster homes to an approved foster family care agency as defined in 55 Pa. Code § 3700.4, so as to effectuate the purposes of the regulations set out in 55 Pa. Code § 3700.2. *In re. Lowry*, 464 A.2d 333 (Pa. Super. 1983).

§ 3700.5. Waivers.

(a) A waiver of a requirement of this chapter may be requested, by the legal entity, as specified in procedures established by the Department.

(b) Approval to waive a requirement of this chapter may be granted if the Department has determined that the need for the waiver is not due to simple non-compliance with this chapter, and the approval:

(1) Does not alter the applicability, scope or purpose of this chapter.

- (2) Is based on evidence, supplied by the requesting agency, that the objective of the requirement will be achieved in another way.
- (3) Is based on evidence, supplied by the requesting agency, that a waiver will have no adverse effect on the health, safety and rights of children.
- (4) Does not violate or condone noncompliance with Federal statutes and regulations or State statutes and regulations other than the requirement of this chapter for which the waiver is approved.
- (5) Does not jeopardize receipt of Federal monies.

Authority

The provisions of this § 3700.5 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.5 adopted January 23, 1987, effective January 24, 1987, 17 Pa.B. 392.

§ 3700.11. [Reserved].

Source

The provisions of this § 3700.11 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (86951) to (86952).

§ 3700.12. [Reserved].

Source

The provisions of this § 3700.12 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (86952).

§ 3700.13. [Reserved].

Source

The provisions of this § 3700.13 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (86952).

§ 3700.14. [Reserved].

Source

The provisions of this § 3700.14 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (86952).

§ 3700.21. [Reserved].

Source

The provisions of this § 3700.21 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (75187).

PROGRAM REQUIREMENTS**§ 3700.31. Number of children allowed in a foster family home.**

FFCA's shall limit the number of children living with any foster family to six. The maximum of six children includes the foster parents' own children. Exception to this requirement may be made only with prior approval obtained in writing from the appropriate regional office of the Department.

Authority

The provisions of this § 3700.31 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.31 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (75187).

§ 3700.32. [Reserved].**Source**

The provisions of this § 3700.32 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (75187) to (75188).

§ 3700.33. [Reserved].**Source**

The provisions of this § 3700.33 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (75188).

§ 3700.34. Family service plan.

A private FFCA shall implement a family service plan and placement amendment as developed by the placing agency.

Source

The provisions of this § 3700.34 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (75188).

§ 3700.35. [Reserved].**Source**

The provisions of this § 3700.35 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (75189).

§ 3700.36. Discipline policies.

The FFCA shall provide foster parents with a copy of the discipline policy as described in § 3700.63 (relating to foster child discipline, punishment and control policy).

Authority

The provisions of this § 3700.36 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.36 amended January 23, 1987, effective July 23, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (75189).

§ 3700.37. [Reserved].**Source**

The provisions of this § 3700.37 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (75189) to (75190).

§ 3700.38. Orientation and information for foster families.

(a) The FFCA shall provide an orientation for new foster families before placing a child with them. The orientation shall include information about:

- (1) FFCA philosophy.
- (2) FFCA practices.
- (3) Roles of the foster family.
- (4) FFCA policies and procedures for discipline, punishment and control of foster children.
- (5) Roles of the FFCA in assisting the foster family in serving children.
- (6) First aid procedures.
- (7) Applicable statutes, regulations and general procedures.

(b) The FFCA supervising the foster family home shall give the foster families an emergency telephone number which provides 24-hour access to the FFCA.

(c) Foster families shall be provided information from the case record which is necessary to protect the child's health and safety and to assist in the child's successful accomplishment of necessary educational, developmental or remedial tasks.

(d) Foster families shall be provided information from the case record which will enable them to function safely and in cooperation with the FFCA.

Authority

The provisions of this § 3700.38 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.38 amended January 23, 1987, effective July 23, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (75190).

3700-7

§ 3700.39. [Reserved].**Source**

The provisions of this § 3700.39 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (75190).

HEALTH CARE REQUIREMENTS**§ 3700.51. Medical and dental care.**

(a) The FFCA shall ensure that a child receives a medical appraisal by a licensed physician within 60 days of the child's admission to foster family care, unless the child has had an appraisal within the last 90 days and the results of the appraisal are available. The appraisal shall include:

- (1) A review of the child's health history.
- (2) Physical examination of the child.
- (3) Laboratory or diagnostic tests as indicated by the examining physician, including those required to detect communicable disease.

(b) The FFCA shall arrange for immediate medical attention when a medical problem is recognized at the time of referral.

(c) After the initial health appraisal, the FFCA shall ensure that a child has contact with a licensed physician according to the following schedule:

<i>Age</i>	<i>Frequency</i>
Birth through 6 months	Once every 6 weeks
7 months through 23 months	Once every 3 months
23 months and older	Once a year

(d) The FFCA shall ensure that a child, 3 years of age or older, receives a dental appraisal by a licensed dentist within 60 days of admission, unless the child has had an appraisal within the previous 6 months and the results of the appraisal are available. The appraisal shall include:

- (1) Taking or reviewing the child's dental history.
- (2) Examination of the hard and soft tissue of the oral cavity.
- (3) X-rays for diagnostic purposes, if deemed necessary by the dentist.

(e) After the initial appraisals, the FFCA shall ensure that dental examinations are given to children 3 years of age or older at least once every 9 months of placement.

(f) The FFCA shall confirm the immunization record of the child within 60 calendar days of placement. An appropriate immunization schedule shall be established for the child based on his immunization status.

(g) The FFCA shall ensure that children receive necessary medical care when they are ill.

(h) The FFCA shall encourage parents to participate in the program of regular and appropriate medical and dental care for their child.

(i) The FFCA shall ensure that a continuing medical record is maintained for each child by assisting with retrieval of past medical records and transfer of current records to the child's ongoing source of child care.

Authority

The provisions of this § 3700.51 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.51 amended January 23, 1987, effective July 23, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (75190) and (97999).

Notes of Decisions

Authority

Section 3700.61 delegates the authority to inspect for compliance with requirements covering health, 55 Pa. Code § 3700.51; safety, 55 Pa. Code § 3700.67; and necessary facilities, 55 Pa. Code § 3700.66; and approve foster homes to an approved foster family care agency as defined in 55 Pa. Code § 3700.4, so as to effectuate the purposes of the regulations set out in 55 Pa. Code § 3700.2. *In re Lowry*, 464 A.2d 333 (Pa. Super. 1983).

§ 3700.52. [Reserved].

Source

The provisions of this § 3700.52 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (97999).

REQUIREMENTS FOR FFCA APPROVAL OF FOSTER FAMILIES

§ 3700.61. Transfer of approval authority.

The Department delegates its authority under Article IX of the Public Welfare Code (62 P. S. §§ 901—922) to inspect and approve foster families to an approved FFCA.

Authority

The provisions of this § 3700.61 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.61 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (98000).

3700-9

Notes of Decisions*Appellate Review*

The Department of Public Welfare's role, when an appeal is taken from a determination by a local Children and Youth Services, is to conduct a fact-finding hearing and not simply apply a "review" standard on appeal. *Children and Youth Services v. Department of Public Welfare*, 533 A.2d 1148 (Pa. Cmwlth. 1987).

Authority

Section 3700.61 delegates the authority to inspect for compliance with requirements covering health, 55 Pa. Code § 3700.51, safety, 55 Pa. Code § 3700.67, and necessary facilities, 55 Pa. Code § 3700.66, and approve foster homes to an approved foster family care agency as defined in 55 Pa. Code § 3700.4, so as to effectuate the purposes of the regulations set out in 55 Pa. Code § 3700.2. *In re Lowry*, 464 A.2d 333 (Pa. Super. 1983).

§ 3700.62. Foster parent requirements.

- (a) Foster parents shall be at least 21 years of age.
- (b) Foster parents shall pass an initial medical appraisal by a licensed physician prior to being approved. The appraisal must establish that the foster parents are physically able to care for children and are free from communicable disease. Further medical examinations may be required by the agency if the agency has reason to believe that additional medical appraisal is appropriate.
- (c) Effective January 1, 1986, foster family care agencies shall require prospective foster parents to comply with section 23.1 of the Child Protective Services Law (11 P. S. § 2223.1) and Chapter 3490 (relating to protective services).

Authority

The provisions of this § 3700.62 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.62 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (98000) to (98001).

Notes of Decisions*Foster Parent Requirements*

Evidence that foster parents had placed pepper on the tongue of a foster child who refused to eat; tied a child to a bed; locked a child in a bedroom and strapped a child to a car seat located inside the home was sufficient to demonstrate that more than physical passive restraint was imposed, which was conduct prohibited by the regulations. *Martz v. Department of Public Welfare*, 536 A.2d 496 (Pa. Cmwlth. 1988).

The Department regulations addressing the inspection and approval of the home custodian reach concerns ranging from the assurances that the drinking water is potable, § 3700.67(h) (relating to safety requirements), and that the intended custodian is physically able to care for the child, § 3700.63 (relating to foster parent discipline policy), to the assurance that the custodian is apprised of the approved policy with regard to the discipline of the child, § 3700.63. *In re. Lowry*, 484 A.2d 383 (Pa. 1984).

Cross References

This section cited in 55 Pa. Code § 3700.69 (relating to annual reevaluation); and 55 Pa. Code § 3700.70 (relating to temporary and provisional approvals of foster families).

§ 3700.63. Foster child discipline, punishment and control policy.(a) *Discipline.*

(1) Foster children shall be directed with techniques that stress praise and encouragement.

(2) Foster children may not be subjected to verbal abuse, derogatory remarks or threats of removal from the foster home.

(b) *Punishment.* The following forms of punishment are prohibited:

- (1) Abusive discipline practices.
- (2) Physical punishment inflicted upon the body.
- (3) Punishment for bedwetting or actions related to toilet training.
- (4) Delegation of punishment to another child.
- (5) Denial of meals, clothing or shelter.
- (6) Denial of elements of the service plan or ISP.
- (7) Denial of communication with, or visits by, the child's family.
- (8) Assignment of physically strenuous exercise or work solely as punishment.

(c) *Control.* Passive physical restraint is the only allowable method of restraining a child.

Authority

The provisions of this § 3700.63 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.63 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (98001).

Notes of Decisions*Home Inspections*

The Department regulations addressing the inspection and approval of the home custodian reach concerns ranging from the assurances that the drinking water is potable, § 3700.67(h) (relating to safety requirements), and that the intended custodian is physically able to care for the child, § 3700.63 (relating to foster parent discipline policy), to the assurance that the custodian is apprised of the approved policy with regard to the discipline of the child, § 3700.63. *In re Lowry*, 484 A.2d 383 (Pa. 1984).

Punishment

Department of Public Welfare regulation permitting foster parents to use “passive physical restraint” as a method of restraining a child and prohibiting foster parents from the use of any “physical punishment inflicted upon the body” binds all county children and youth agencies, but does not bind *In re D. T.*, 35 D.&C. 4th 454 (1998).

Evidence that foster parents had placed pepper on the tongue of a foster child who refused to eat; tied a child to a bed; locked a child in a bedroom and strapped a child to a car seat located inside the home was sufficient to demonstrate that more than physical passive restraint was imposed, which was conduct prohibited by the regulations. *Martz v. Department of Public Welfare*, 536 A.2d 496 (Pa. Cmwlth. 1988).

Cross References

This section cited in 55 Pa. Code § 3700.36 (relating to discipline policies); 55 Pa. Code § 3700.69 (relating to annual reevaluation); and 55 Pa. Code § 3700.70 (relating to temporary and provisional approvals of foster families).

§ 3700.64. Assessment of foster parent capability.

(a) The FFCA shall consider the following when assessing the ability of applicants for approval as foster parents:

- (1) The ability to provide care, nurturing and supervision to children.
- (2) A demonstrated stable mental and emotional adjustment. If there is a question regarding the mental or emotional stability of a family member which might have a negative effect on a foster child, the FFCA shall require a psychological evaluation of that person before approving the foster family home.
- (3) Supportive community ties with family, friends and neighbors.

(b) In making a determination in relation to subsection (a) the FFCA shall consider:

- (1) Existing family relationships, attitudes and expectations regarding the applicant's own children and parent/child relationships, especially as they might affect a foster child.
- (2) Ability of the applicant to accept a foster child's relationship with his own parents.
- (3) The applicant's ability to care for children with special needs, such as physical handicaps and emotional disturbances.
- (4) Number and characteristics of foster children best suited to the foster family.
- (5) Ability of the applicant to work in partnership with an FFCA.

Notes of Decisions

Foster Parent Capability

The Department regulations addressing the inspection and approval of the home custodian reach concerns ranging from the assurances that the drinking water is potable, § 3700.67(h) (relating to safety requirements), and that the intended custodian is physically able to care for the child, § 3700.63 (relating to foster parent discipline policy), to the assurance that the custodian is apprised of the approved policy with regard to the discipline of the child, § 3700.63. *In re Lowry*, 484 A.2d 383 (Pa. 1984).

In approving a foster home, the agency must consider, among other factors, the would-be foster parents' ability to cooperate with the agency and to accept the relationship between the child and the child's parents. *In Re Adoption of Crystal D.R.*, 480 A.2d 1146 (Pa. Super. 1984).

Cross References

This section cited in 55 Pa. Code § 3700.69 (relating to annual reevaluation); and 55 Pa. Code § 3700.70 (relating to temporary and provisional approvals of foster families).

§ 3700.65. Foster parent training.

A foster parent shall participate annually in a minimum of 6 hours of agency approved training.

Authority

The provisions of this § 3700.65 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.65 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (98002).

Notes of Decisions*Foster Parent Requirements*

The Department regulations addressing the inspection and approval of the home custodian reach concerns ranging from the assurances that the drinking water is potable, § 3700.67(h) (relating to safety requirements), and that the intended custodian is physically able to care for the child, § 3700.63 (relating to foster parent discipline policy), to the assurance that the custodian is apprised of the approved policy with regard to the discipline of the child, § 3700.63. *In re. Lowry*, 484 A.2d 383 (Pa. 1984).

Cross References

This section cited in 55 Pa. Code § 3700.69 (relating to annual reevaluation); and 55 Pa. Code § 3700.70 (relating to temporary and provisional approvals of foster families).

§ 3700.66. Foster family residence requirements.

- (a) The FFCA shall ensure that the foster family residence has:
- (1) At least one flush toilet, one wash basin and one bath or shower with hot and cold running water.
 - (2) An operable heating system.
 - (3) An operable telephone.
- (b) Sleeping areas shall meet the following criteria:
- (1) No unsuitable area such as a hall, stairway, unfinished attic or basement, garage, bathroom, eating area, closet, shed or detached building may be used as a sleeping area for children.
 - (2) Foster children of the opposite sex who are 5 years of age or older may not share the same bedroom.
 - (3) Each foster child shall be provided with a clean, comfortable mattress and clean linens, blankets and pillow.

Authority

The provisions of this § 3700.66 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.66 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (98003).

Notes of Decisions*Authority*

Section 3700.61 delegates the authority to inspect for compliance with requirements covering health, 55 Pa. Code § 3700.51, safety, 55 Pa. Code § 3700.67, and necessary facilities, 55 Pa. Code § 3700.66, and approve foster homes to an approved foster family care agency as defined in 55 Pa. Code § 3700.4, so as to effectuate the purposes of the regulations set out in 55 Pa. Code § 3700.2. *In re. Lowry*, 464 A.2d 333 (Pa. Super. 1983).

Foster Parent Requirements

The Department regulations addressing the inspection and approval of the foster family residence reach concerns ranging from the assurances that the drinking water is potable, § 3700.67(h) (relating to safety requirements), and that the intended custodian is physically able to care for the child, § 3700.63 (relating to foster parent discipline policy), to the assurance that the custodian is apprised of the approved policy with regard to the discipline of the child, § 3700.63. *In re. Lowry*, 484 A.2d 383 (Pa. 1984).

Cross References

This section cited in 55 Pa. Code § 3700.69 (relating to annual reevaluation); and 55 Pa. Code § 3700.70 (relating to temporary provisional approvals of foster families).

§ 3700.67. Safety requirements.

- (a) Medication and containers of poisonous, caustic, toxic, flammable or other dangerous material kept in the residence shall be distinctly marked or labeled as hazardous and stored in areas inaccessible to children under 5 years of age.
- (b) Emergency telephone numbers, including those for fire, police, poison control and ambulance, shall be conspicuously posted adjacent to all telephones.
- (c) Fireplaces, fireplace inserts, wood and coal burning stoves and free-standing space heaters, if allowed by local ordinance, shall be installed, equipped and operated according to manufacturers' specifications and requirements specified by local ordinance.
- (d) An operable smoke detector shall be placed on each level of the residence. The detector shall be maintained in operable condition.
- (e) A portable fire extinguisher, suitable for Class B fires, shall be available in the kitchen and other cooking areas. The extinguisher shall be tested yearly or have a gauge to ensure adequate pressure.
- (f) Protective safety caps shall be placed in electrical outlets accessible to children younger than 5 years of age.

- (g) Exposed electrical wires are prohibited.
- (h) Drinking water from an individual water source shall be potable as determined by an annual microbiological test conducted by a laboratory certified by the Department of Environmental Resources.
- (i) (Reserved).

Authority

The provisions of this § 3700.67 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.67 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (98005).

Notes of Decisions

Section 3700.61 delegates the authority to inspect for compliance with requirements covering health, 55 Pa. Code § 3700.51; safety, 55 Pa. Code § 3700.67, necessary facilities, 55 Pa. Code § 3700.66; and approve foster homes to an approved foster family care agency as defined in 55 Pa. Code § 3700.4, so as to effectuate the purposes of the regulations set out in this section. *In re Lowry*, 464 A.2d 333 (Pa. Super. 1983).

Cross References

This section cited in 55 Pa. Code § 3700.69 (relating to annual reevaluation); and 55 Pa. Code § 3700.70 (relating to temporary and provisional approvals of foster families).

§ 3700.68. [Reserved].

Source

The provisions of this § 3700.68 reserved January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (98005) to (98006).

Notes of Decisions

Placement in Unapproved Homes

In ordering a disposition under 42 Pa.C.S. § 6351 (relating to disposition of dependent child), the court does have the authority to order the county institution district to place children in homes not yet approved, even though the provisions of subsection (b) and § 3130.39 (relating to services and facilities which may be used) prohibits the county institution district from doing so on its own initiative and the Superior Court judgment was reversed. *In re Lowry*, 484 A.2d 383 (Pa. 1984).

The courts cannot order a County Children and Youth Services agency to supervise the placement of a dependent child in a foster home that had not been inspected and approved by a foster family care agency, under this section. *In re Lowry*, 464 A.2d 333 (Pa. Super. 1983).

§ 3700.69. Annual reevaluation.

- (a) The FFCA shall visit and inspect annually each foster family to determine continued compliance with the requirements of §§ 3700.62—3700.67 (relating to foster parent requirements; foster child discipline, punishment and control policy;

assessment of foster parent capability; foster parent training; foster family residence requirements; and safety requirements).

(b) The FFCA shall give each foster family written notice regarding the results of the annual evaluation.

(c) The FFCA shall give written notice to foster families of its decision to approve, disapprove or provisionally approve the foster family. The written notice shall inform the foster parents that they may appeal the FFCA's decision to disapprove or provisionally approve the foster family.

Authority

The provisions of this § 3700.69 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.69 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (98006).

§ 3700.70. Temporary and provisional approvals of foster families.

(a) Foster families may be temporarily approved to provide foster care to children.

(1) Temporary approval is a time-limited status which may be authorized by an FFCA when a complete assessment of the foster family has not been made prior to the placement of a foster child.

(2) The FFCA may authorize temporary approval only if a partial assessment of the family indicates that a foster child's health or safety will not be jeopardized if placed with the temporarily approved foster family. The partial assessment shall include, at a minimum, the following:

- (i) An on-site visit to the home.
- (ii) An inspection of the physical aspects of the home.
- (iii) A brief assessment of the social and emotional qualities of the parents as they affect their ability to care for a foster child.
- (iv) The willingness of the parents to accept FFCA involvement and work cooperatively with the FFCA.
- (v) The ability of the parents to meet the special needs of a child taken into the temporary protective custody of an agency.

(3) Temporary approval of a foster family may be authorized for a maximum of 60 calendar days, starting from the date on which the FFCA places the foster child with the foster family.

(4) If an assessment verifying compliance with the requirements of §§ 3700.62—3700.67 (relating to foster parent requirements; foster child discipline, punishment and control policy; assessment of foster parent capability; foster parent training; foster family residence requirements; and safety require-

ments) is not completed by the FFCA within 60 days, the approval of the home terminates automatically, and foster children shall be removed from the foster family.

(b) Foster families may be given provisional approval to care for foster children.

(1) Provisional approval of a foster family may be authorized by an FFCA when a previously approved foster family is determined, in a reevaluation, not to meet one or more of the requirements in §§ 3700.62—3700.67.

(2) The FFCA may authorize provisional approval only if the identified areas of regulatory noncompliance will not result in an immediate threat to the health or safety of foster children placed with the foster family.

(3) During a period of provisional approval, the FFCA may not place additional children with the foster family.

(4) For foster families approved before October 1, 1982, provisional approval may be maintained until children placed before October 1, 1982, have left the foster family.

(5) For foster families approved after October 1, 1982, provisional approval may be maintained for no longer than 12 months. The FFCA shall terminate the provisional approval of a foster family unable to achieve compliance within 12 months of receipt of provisional approval. Upon termination of

a foster family's provisional approval, the FFCA shall remove foster children living with the foster family.

(c) (Reserved).

Authority

The provisions of this § 3700.70 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.70 amended January 23, 1987, effective January 24, 1987 except subsection (a) effective April 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (98006) to (98007).

§ 3700.71. Foster family file.

The FFCA shall maintain a file for each foster family home. The file must contain a copy of the foster family home approval and the results of each annual foster family home reevaluation.

Notes of Decisions

Children in Foster Care—Disclosure of File

Appellants, a minor child and the child's grandmother, were entitled to receive the foster family file pursuant to this regulation. *S. M. v. Children & Youth Services of Delaware County*, 686 A.2d 872 (Pa. Cmwlth. 1996).

§ 3700.72. Foster family approval appeals.

(a) The FFCA shall give written notice to each applicant of its decision to approve, disapprove or provisionally approve the foster family. The written notice shall inform the foster parents that they may appeal the FFCA's decision to disapprove or provisionally approve the foster family.

(b) Foster parents who wish to appeal an FFCA decision to disapprove or provisionally approve the foster family shall submit to the FFCA a written appeal, postmarked no later than 15 calendar days from the date of the written notice. The appeals are subject to Title 9003 of the DPW Manual to be codified at Chapter 30 (relating to licensure or approval appeal procedures).

(c) Upon receipt of the foster parent appeal, the FFCA shall date stamp the appeal. The FFCA shall review the appeal and determine if steps can be taken to resolve the appeal without a hearing. If, after considering the appeal, the FFCA is unable to resolve issues of disagreement, the appeal shall be sent to the Office of Hearings and Appeals, Post Office Box 2675, Harrisburg, Pennsylvania 17105 within 15 calendar days of the date stamp.

Authority

The provisions of this § 3700.72 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.72 amended January 23, 1987, effective April 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (98007).

§ 3700.73. Foster parent appeal of child relocation.

(a) Foster parents may appeal the relocation of a child from the foster family except under one of the following conditions:

- (1) The child has been with the foster family less than 6 months.
- (2) The removal is initiated by the court.
- (3) The removal is to return the child to his parents.
- (4) The removal is to place the child for adoption.
- (5) An investigation of a report of alleged child abuse indicates the need for protective custody removal to protect the child from further serious physical or mental injury, sexual abuse or serious physical neglect as defined in Chapter 3490 (relating to protective services).

(b) The FFCA shall inform foster parents in writing that they may appeal the relocation of a child in accordance with subsection (a) at least 15 days prior to the relocation of the child.

(c) Foster parents who wish to appeal the relocation of a child shall submit to the FFCA a written appeal to be postmarked no later than 15 days after the date of the notice of their right to appeal the child's relocation.

(d) Upon receipt of the foster parent's appeal, the FFCA shall date stamp the appeal and submit it to the Department's Office of Hearings and Appeals, Post-Office Box 2675, Harrisburg, Pennsylvania 17105, within 5 working days.

(e) If a foster parent submits an appeal in accordance with subsection (c) and the foster parent has the right to appeal in accordance with subsection (a), the child shall remain in the foster family home pending a decision on the appeal.

(f) Parties to an appeal of a child's relocation may be represented by an attorney or other representative.

Authority

The provisions of this § 3700.73 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3700.73 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (98007) to (98008).

Notes of Decisions*Adoption Proceedings*

Foster parents do not have standing to commence adoption proceedings without the consent of the child welfare agency which has legal custody. *Chester County Children & Youth Services v. Cunningham*, 656 A.2d 1346 (Pa. 1995).

Prospective adoptive parents are sufficiently distinguishable from foster parents to give standing to seek judicial review of an agency's decision regarding custody of a child. *Mitch v. Bucks County Children and Youth Social Service Agency*, 556 A.2d 419 (Pa. Super. 1989).

Custody Award

While the legislature has provided foster parents with a specific administrative remedy where their foster child is to be relocated, no such similar provision has been provided specifying that foster parents are permitted to seek or contest a custody award of their foster child where relocation is imminent; based on the foregoing, the Supreme Court concluded that foster parents lacked standing to seek or contest custody of their foster child, who had been adjudicated dependent. *In re G. C.*, 735 A.2d 1226 (Pa. 1999).

Protection of Child

Given the need for protective custody, foster parents did not have the right to insist that the foster children be left in their home pending a decision on appeal. *Martz v. Department of Public Welfare*, 536 A.2d 496 (Pa. Cmwlth. 1988).

[Next page is 3710-1.]

3700-20

(262082) No. 303 Feb. 00

Copyright © 2000 Commonwealth of Pennsylvania