

EMERGENCY JUSTIFICATION

The Office of Children and Family Services (OCFS) finds that immediate adoption of these regulations on an emergency basis is necessary to protect the general welfare of children in foster care within New York State and to eliminate unnecessary barriers to selecting appropriate adults to care for children in the foster care system or who are being adopted by updating the required medical standards to establish that persons are in satisfactory physical and mental health to care for children without a posed risk related to the health and safety of children based on reports from qualified licensed health care professionals.

Specifically, these emergency regulations:

(1) Remove existing regulatory provisions which require tuberculosis screening and/or tuberculin testing, including chest x-rays as a requirement for:

(a) All members of a household for:

(i) Foster homes as a condition for initial certification or approval of the foster home and biennially for renewal of the certification or approval of the foster home; and

(ii) An adoption home study, which is required for the approval of an adoptive parent to occur; and

(b) For initial and continuing employment on an annual basis within a residential foster care programs that are operated as:

(i) Child caring institutions; and

(ii) Group homes; and

(2) Removing overly stringent requirements that prohibited approval of foster or adoptive homes or employment if persons were identified as having a having a disease, regardless of whether such condition may be communicable or pose a risk to the health and safety of children.

Instead, these amendments continue requirements for appropriate physical examination of all individuals covered above within the last twelve months that must indicate:

(1) The absence of communicable disease, infection, or illness or any physical or mental condition(s) which might affect the proper care of children; or

(2) That presence of any identified affliction does not pose a risk to the health and safety to children.

All of these changes are required on an expedited basis to maintain the general health safety, and welfare of children in foster care and those who are adopted by preventing scenarios that may unnecessary delay adoptions; disrupt or prevent or disrupt foster existing care placement that may be in a child's best interest; and create staffing challenges for programs providing critical services to children in foster care.