

21-01

Attachment D

OMB Approval No. 0970-0433
Expiration Date: 2/28/2019

**AGENCY PLAN FOR TITLE IV-E OF THE SOCIAL SECURITY ACT
FOSTER CARE AND ADOPTION ASSISTANCE
STATE/TRIBE OF NEW YORK**

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
ADMINISTRATION FOR CHILDREN AND FAMILIES
CHILDREN'S BUREAU
May 2018

SECTION 1. ORGANIZATION

- A. DESIGNATION AND AUTHORITY OF STATE/TRIBAL AGENCY
- B. STATE/TRIBAL AGENCY STRUCTURE AND FUNCTION
- C. STATE OR SERVICE AREA WIDE OPERATIONS
- D. COORDINATION WITH TITLES IV-A AND IV-B PROGRAMS
- E. CHILD SUPPORT ENFORCEMENT FOR CERTAIN CHILDREN IN FOSTER CARE
- F. TRANSFER OF A CHILD TO A TRIBAL AGENCY

SECTION 2. FOSTER CARE MAINTENANCE PAYMENTS

- A. ELIGIBILITY
- B. VOLUNTARY PLACEMENTS (OPTION)
- C. PAYMENTS

- D. CASE REVIEW SYSTEM
- E. MEDICAL AND SOCIAL SERVICES
- F. SPECIFIC GOALS IN STATE/TRIBAL LAW
- G. PREVENTIVE AND REUNIFICATION SERVICES
- H. TERMINATION OF PARENTAL RIGHTS
- I. DATE CHILD CONSIDERED TO HAVE ENTERED FOSTER CARE
- J. DOCUMENTATION OF JUDICIAL DETERMINATION
- K. TRIAL HOME VISITS
- L. TRAINING
- M. DEFINITION OF CHILD
- N. ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT
- O. ABSENCES FROM CARE
- P. RIGHTS
- Q. PLACEMENT IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM

SECTION 3. ADOPTION ASSISTANCE PAYMENTS

- A. ELIGIBILITY
- B. PAYMENTS - AMOUNTS AND CONDITIONS
- C. ADOPTION ASSISTANCE AGREEMENT
- D. MEDICAID AND SOCIAL SERVICES
- E. ELIGIBILITY FOR ADOPTION INCENTIVE FUNDING
- F. ADOPTION TAX CREDIT
- G. DEFINITION OF CHILD

SECTION 4. GENERAL PROGRAM REQUIREMENTS

- A. STANDARDS FOR FOSTER FAMILY HOMES AND CHILD CARE INSTITUTIONS
- B. REVIEW OF PAYMENTS AND LICENSING STANDARDS

- C. FAIR HEARINGS
- D. INDEPENDENT AUDIT
- E. CHILD ABUSE AND NEGLECT
- F. TIMELY INTERSTATE PLACEMENT OF CHILDREN
- G. REMOVAL OF BARRIERS TO INTERETHNIC ADOPTION
- H. KINSHIP CARE
- I. SIBLING PLACEMENT
- J. SAFETY REQUIREMENTS
- K. INTERJURISDICTIONAL ADOPTIONS
- L. QUALITY STANDARDS
- M. COMPULSORY SCHOOL ATTENDANCE
- N. VERIFICATION OF CITIZENSHIP OR IMMIGRATION STATUS
- O. DEFINITIONS
- P. SEX TRAFFICKING VICTIMS AND MISSING CHILDREN

SECTION 5. GENERAL PROVISIONS

- A. PERSONNEL ADMINISTRATION
- B. SAFEGUARDING INFORMATION
- C. REPORTING
- D. MONITORING
- E. APPLICABILITY OF DEPARTMENT-WIDE REGULATIONS
- F. AVAILABILITY OF PLANS
- G. OPPORTUNITY FOR PUBLIC INSPECTION OF CFSR MATERIALS
- H. NEGOTIATION WITH INDIAN TRIBES

SECTION 6. GUARDIANSHIP ASSISTANCE PROGRAM OPTION

- A. ELIGIBILITY

- B. PAYMENTS
- C. AGREEMENTS
- D. SAFETY
- E. MEDICAID AND SOCIAL SERVICES
- F. TITLE IV-E GUARDIANSHIP ASSISTANCE PROGRAM PLAN REQUIREMENTS
- G. DEFINITION OF CHILD

SECTION 7. TRIBE OPERATED IV-E PROGRAM REQUIREMENTS

- A. GENERAL PROGRAM REQUIREMENTS
- B. SERVICE AREA AND POPULATIONS
- C. NUNC PRO TUNC AND FOSTER CARE ELIGIBILITY REQUIREMENTS
- D. LICENSING STANDARDS FOR TRIBAL FOSTER FAMILY HOMES AND CHILD CARE INSTITUTIONS

ATTACHMENTS

- ATTACHMENT I: CERTIFICATION
- ATTACHMENT II: ATTORNEY GENERAL/APPROPRIATE TRIBAL OFFICIAL'S CERTIFICATION
- ATTACHMENT III: TITLE IV-E ADOPTION ASSISTANCE PROGRAM SAVINGS REPORTING ASSURANCES
- ATTACHMENT IV: TRIBAL ASSURANCES
- ATTACHMENT V: 479B TRIBAL CERTIFICATIONS
- ATTACHMENT VI: 475(8) STATE/TRIBAL CERTIFICATION
- ATTACHMENT VII: STATE/TRIBAL CERTIFICATION: PERSONNEL ADMINISTRATION
- ATTACHMENT VIII: STATE/TRIBAL CERTIFICATION: PREVENTING INCREASES TO THE JUVENILE JUSTICE POPULATION
- ATTACHMENT IX: ALTERNATE PROCEDURES FOR CRIMINAL BACKGROUND CHECKS
- ATTACHMENT X: DEVIATION FROM MODEL LICENSING STANDARDS AND WAIVERS FOR FOSTER FAMILY HOMES

ATTACHMENT XI: STATE/TRIBAL CERTIFICATION OF "QUALIFIED INDIVIDUALS" AND REQUEST FOR ALTERNATE ACCREDITING ORGANIZATION

**PLAN FOR TITLE IV-E OF THE SOCIAL SECURITY ACT
FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE
STATE/TRIBE OF NEW YORK**

As a condition of the receipt of Federal funds under title IV-E of the Social Security Act (hereinafter, the Act), the

New York State Office of Children and Family Services

(Name of State/Tribal Agency)

submits here a plan for the programs to provide, in appropriate cases, foster care and adoption assistance, and if the State/Tribal agency elects, guardianship assistance, under title IV-E of the Act and hereby agrees to administer the programs in accordance with the provisions of this plan, title IV-E of the Act, and all applicable Federal regulations and other official issuances of the Department.

The official text of laws, regulations and official issuances governs, and the State/Tribal agency acknowledges its responsibility to adhere to them regardless of the fact that, for purposes of simplicity, the specific provisions printed herein are sometimes paraphrases of, or excerpts and

incomplete quotations from, the full text. Statutory citations refer to provisions in title IV-E of the Social Security Act. Regulatory citations refer to provisions in 45 CFR Parts 1355 and 1356.

The State/Tribal agency understands that if and when title IV-E is amended or regulations are revised, a new or amended plan for title IV-E that conforms to the revisions must be submitted.

Federal Regulatory/ Statutory References ¹	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	SECTION 2. FOSTER CARE MAINTENANCE PAYMENTS	
472(a)(2)(B)&(C) 472(a)(2)(B)(i) 472(a)(2)(B)(ii)	c. whose placement and care in a foster family home, with a parent residing in a licensed residential family-based treatment facility for substance abuse, but only to the extent permitted under 472(j), or in a child care institution (as defined in section 472(c) of the Act), but only to the extent permitted under 472(k), is the responsibility of either: <ul style="list-style-type: none"> i. the State agency administering the approved title IV-E plan; 	<p>NYS will not be opting to claim IV-E for 472 (j) at this time.</p> <p>21-OCFS-ADM-04 Qualified Residential Treatment Programs (QRTPs) and QRTP</p>

¹ Statutory references refer to the Social Security Act. Regulatory references refer to Title 45 of the Code of Federal Regulations (CFR).

Federal Regulatory/ Statutory References ¹	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	<ul style="list-style-type: none"> ii. any other public agency with whom the State/Tribal agency administering or supervising the administration of the approved title IV-E plan has made an agreement which is still in effect; or iii. a Tribe that has a plan approved under section 471 in accordance with 479B; and 	<p>Exceptions in New York State</p> <p>21-OCFS-ADM-17 Role and Responsibility of the Qualified Individual in New York State</p> <p>SSL 39 Indian Affairs.</p> <p>SSL 398 Additional powers and duties of commissioners of public welfare and certain city public welfare officers in relation to children.</p> <p>SSL 460-c Inspection and supervision. (of</p>

Federal Regulatory/ Statutory References ¹	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
		<p>residential programs for children).</p> <p>Ex. L 501 General functions, powers and duties of division. (OCFS)</p> <p>18 NYCRR Part 426 Title IV-E foster care and adoption assistance.</p> <p>OCFS Eligibility Manual for Child Welfare Programs, (Updated 2021)</p>
<p>472(a)(3)(A)(i)</p> <p>472(a)(3)(A)(ii)(I)</p>	<p>d. who:</p> <p>i. Either:</p>	<p>NYS will not be opting to claim IV-E</p>

Federal Regulatory/ Statutory References ¹	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
<p>472(a)(3)(A)(ii)(II)</p> <p>472(a)(3)(B)</p> <p>472(j)(1)</p>	<p>A. received AFDC, in the home referred to in section 472(a)(1), under the State plan approved under section 402 of the Act (as in effect 7/16/96) in or for the month in which either a voluntary placement agreement was entered into or court proceedings leading to the judicial determination, referred to in section 472(a)(2)(A) of the Act, were initiated;</p> <p>B. would have received AFDC, in the home, in or for such month referred to in the above clause if application for such aid had been made; or</p> <p>C. had been living with a relative specified in section 406(a) of the Act (as in effect 7/16/96) within six months prior to the month in which a voluntary placement agreement was entered into or court proceedings leading to the judicial determination, referred to in section 472(a)(2)(A) of the Act, were initiated, and would have received AFDC in or for such month if the child had been living in the home with such relative and an application had been made for AFDC under title IV-A of the Act; and</p>	<p>for 472(j) at this time.</p> <p>18 NYCRR Part 426 Title IV-E foster care and adoption assistance.</p> <p>OCFS Eligibility Manual for Child Welfare Programs, (Updated 2021)</p>

Federal Regulatory/ Statutory References ¹	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	<p>ii. had resources (determined under section 402(a)(7)(B) of the Act as in effect 7/16/96) that had a combined value of not more than \$10,000 consistent with section 472(a)(3)(B) of the Act; or</p> <p>iii. Is not required to meet the AFDC requirements in 472(a)(3) of the Act because the child is placed with a parent residing in a licensed residential family-based substance abuse treatment facility (Tribes, see section 7 for related requirements in section 479B(c)(1)(C)(ii)(II) of the Act.)</p>	
<p>472(b)(1)&(2)</p> <p>472(k)</p>	<p>2. Foster care maintenance payments are made only on behalf of an eligible child who is:</p> <p>a. in the foster family home of an individual or family, whether the payments are made to such individual or to a public or private child placement or child care agency; or</p> <p>b. in a child care institution, whether the payments are made to such institution or to a public or private child placement or child-care agency. Such payments are limited to include only those items that are included in the term</p>	<p>NYS will not be opting to claim IV-E for 472 (j) at this time.</p> <p>21-OCFS-ADM-04 Qualified Residential Treatment Programs (QRTPs) and QRTP</p>

Federal Regulatory/ Statutory References ¹	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	<p>"foster care maintenance payments" (defined in section 475(4) of the Act). Title IV-E agencies may claim for title IV-E foster care maintenance payments paid on behalf of an eligible child placed in a child care institution for up to two weeks. Title IV-E agencies may continue to claim administrative costs for the duration of the period in the CCI regardless of whether the CCI meets the restrictions in section 472(k) of the Act. After two weeks, title IV-E FCMP for a child placed in a CCI are only available if that CCI is a:</p> <ul style="list-style-type: none"> i. "qualified residential treatment program" (QRTP), as defined in section 472(k)(4) of the Act and subject to additional requirements described below; <ul style="list-style-type: none"> i. a setting specializing in providing prenatal, postpartum, or parenting supports for youth; ii. in the case of a youth who has attained 18 years of age, a supervised setting in which the youth is living independently; 	<p>Exceptions in New York State</p> <p>21-OCFS-ADM-17 Role and Responsibility of the Qualified Individual in New York State</p> <p>21-OCFS-ADM-18 Prenatal, Postpartum, Parenting Programs; Qualified Residential Treatment Programs Exception in NYS</p> <p>21-OCFS-ADM-19 Requirements to Operate an EMPOWER Qualified Residential Treatment Program</p>

Federal Regulatory/ Statutory References ¹	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	<p>iii. a setting providing high-quality residential care and supportive services to children and youth who have been found to be, or are at risk of becoming, sex trafficking victims; or</p> <p>iv. a licensed residential family-based treatment facility for substance abuse (subject to additional requirements per section 472(j) of the Act).</p>	<p>(QRTP) Exception Program</p> <p>21-OCFS-INF-08 Supervised Settings as Expanded Placement Options for Older Youth in Foster Care</p> <p>SSL 371 Definitions.</p> <p>SSL 383-a Immunity from liability of the reasonable and prudent parent standard.</p> <p>SSL 398 Additional powers and duties of commissioners or public welfare and</p>

Federal Regulatory/ Statutory References ¹	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
		<p>certain city public welfare officers related to children.</p> <p>BCL 405-a Institution for children; approval of certificate.</p> <p>SSL 409-h Assessment of appropriateness of placement in a qualified residential treatment program.</p> <p>18 NYCRR Part 426 Title IV-E foster care and adoption assistance.</p> <p>18 NYCRR 427.2 (a) and (b)(2) Definitions.</p>

Federal Regulatory/ Statutory References ¹	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
		<p>18 NYCRR 430.11 Appropriateness of placement.</p> <p>18 NYCRR 431.6 Court ordered placement of children.</p> <p>18 NYCRR 439.4 Qualified Residential treatment Program Requirements.</p> <p>18 NYCRR Part 440 Programs for youth who have been or are at-risk of sex trafficking.</p> <p>18 NYCRR 441.2 Definitions.</p>

Federal Regulatory/ Statutory References ¹	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
		<p>18 NYCRR 442.26 Certification for specialized programs to serve prenatal, postpartum or parenting youth.</p> <p>18 NYCRR 447.10 Certification for specialized programs to serve prenatal, postpartum or parenting youth.</p> <p>18 NYCRR 448.11</p> <p>18 NYCRR 449.1 Definitions.</p> <p>18 NYCRR 449.2 Conditions for application and</p>

Federal Regulatory/ Statutory References¹	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
		<p>approval of a supervised setting program.</p> <p>18 NYCRR 449.3 Conditions for operation of a supervised setting program by an authorized agency.</p> <p>18 NYCRR 449.4 Requirements for each supervised setting.</p> <p>OCFS Eligibility Manual for Child Welfare Programs, (Updated 2021)</p>

Federal Regulatory/ Statutory References ¹	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
<p>475(5)(B)</p> <p>475A(c)(4)</p>	<p>a. a review of each child's status is made no less frequently than once every six months either by a court or by an administrative review to:</p> <ul style="list-style-type: none"> i. determine the safety of the child, the continuing need for and appropriateness of the placement; ii. determine the extent of compliance with the case plan; iii. determine the extent of progress made toward alleviating or mitigating the causes necessitating the placement; and iv. project a likely date by which the child may be returned and safely maintained at home or placed for adoption or legal guardianship; and v. for a child for whom another planned permanent living arrangement has been determined as the permanency plan, determine the steps the state/tribal agency is taking to ensure the child’s foster family home or child care institution is following the reasonable and prudent parent standard and to ascertain whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities; and 	<p>21-OCFS-ADM-04 Qualified Residential Treatment Programs (QRTPs) and QRTP Exceptions in New York State</p> <p>18 NYCRR 439.5 Long Stayers – Special Provisions.</p> <p>SSL 409-a Family service plan.</p> <p>FCA 1089 Permanency hearings.</p> <p>18 NYCRR Part 428 Standards for uniform case records and family</p>

Federal Regulatory/ Statutory References ¹	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	<p>vi. for a child placed in a qualified residential treatment program, evidence -</p> <p>demonstrating that ongoing assessment of the strengths and needs of the child continues to support the determination that the needs of the child cannot be met through placement in a foster family home, that the placement in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment, and that the placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child;</p> <p>documenting the specific treatment or service needs that will be met for the child in the placement and the length of time the child is expected to need the treatment or services; and</p> <p>documenting the efforts made by the State/Tribal agency to prepare the child to return home or to be</p>	<p>and child assessments and service plans.</p> <p>18 NYCRR 430.12(c)(2) Diligence of effort, Service plan reviews.</p> <p>OCFS Family Assessment and Service Plan (FASP) Guide, Modules 8 and 13</p>

Federal Regulatory/ Statutory References ¹	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	<p>placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home.</p> <p>In the case of any child who is placed in a qualified residential treatment program for more than 12 consecutive months or 18 nonconsecutive months (or, in the case of a child who has not attained age 13, for more than 6 consecutive or nonconsecutive months), the State/Tribal agency shall maintain for the Secretary’s inspection/review the most recent versions of the evidence and documentation specified at the review hearing and the signed approval of the head of the State/Tribal agency for the continued placement of the child in that setting.</p>	
<p>1356.21(b)(3) 475(5)(C) 471(a)(15)(E)(i) 475A(c)(4)</p>	<p>d. For the purposes of this requirement, a permanency hearing shall determine:</p> <ul style="list-style-type: none"> i. the permanency plan for the child that includes whether, and if applicable when, the child will be returned to the parent, or placed for adoption and the State/Tribe will file a petition for termination of parental rights, or referred to legal guardianship, or only in the case of a child who has attained 16 years 	<p>21-OCFS-ADM-04 Qualified Residential Treatment Programs (QRTPs) and QRTP Exceptions in New York State</p>

Federal Regulatory/ Statutory References ¹	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	<p>of age (in cases where the State/Tribal agency has documented to the court a compelling reason for determining, as of the date of the hearing, that it would not be in the best interest of the child to return home, be referred for termination of parental rights, or be placed for adoption, with a fit and willing relative, or with a legal guardian) placed in another planned permanent living arrangement subject to section 475A(a) of the Act;</p> <p>ii. in the case of a child who will not be returned to the parent, the hearing shall consider in-State/Tribal service area and out-of-State/Tribal service area placement options;</p> <p>iii. in the case of a child placed out of the State/Tribal service area in which the home of the parent(s) of the child is located, the hearing shall determine whether the out-of-State/Tribal service area placement continues to be appropriate and in the best interests of the child;</p> <p>iv. in the case of a child who has attained age 14, the services needed to assist the child to make the transition from foster care to successful adulthood;</p>	<p>SSL 358-a Dependent children in foster care.</p> <p>FCA 355.5 Permanency hearing.</p> <p>FCA 754 Disposition on adjudication of person in need of supervision.</p> <p>FCA 756-a Extension of placement.</p> <p>FCA 1039-b Termination of reasonable efforts.</p> <p>FCA 1052 Disposition on adjudication.</p>

Federal Regulatory/ Statutory References ¹	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	<p>v. in any permanency hearing held with respect to the child, including any hearing regarding the transition of the child from foster care to successful adulthood, procedural safeguards shall be applied to assure the court or administrative body conducting the hearing consults, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child; and</p> <p>vi. if a child has attained 14 years of age, the permanency plan developed for the child, and any revision or addition to the plan, shall be developed in consultation with the child and, at the option of the child, with not more than 2 members of the permanency planning team who are selected by the child and who are not a foster parent of, or caseworker for, the child, except that the state or tribal agency may reject an individual so selected by the child if the agency has good cause to believe that the individual would not act in the best interests of the child, and 1 individual so selected by the child may be designated to be the child’s advisor and, as necessary, advocate, with respect to the application</p>	<p>FCA 1089 Permanency hearings.</p> <p>18 NYCRR Part 426 Title IV-E foster care and adoption assistance.</p> <p>18 NYCRR 428.3 Uniform case record requirements.</p> <p>18 NYCRR 430.12 Diligence of effort.</p> <p>18 NYCRR 439.5 Long Stayers – Special Provisions.</p> <p>See attached letter NYSOCFS Title IV-E</p>

Federal Regulatory/ Statutory References ¹	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	<p>of the reasonable and prudent standard to the child; and vii. for a child placed in a qualified residential treatment program, evidence -</p> <p>demonstrating that ongoing assessment of the strengths and needs of the child continues to support the determination that the needs of the child cannot be met through placement in a foster family home, that the placement in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment, and that the placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child;</p> <p>documenting the specific treatment or service needs that will be met for the child in the placement and the length of time the child is expected to need the treatment or services; and</p> <p>documenting the efforts made by the State/Tribal agency to prepare the child to return home or to be</p>	<p>Amendment (21-01) Long-Stayer Documentation Compliance</p>

Federal Regulatory/ Statutory References¹	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	<p>placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home.</p> <p>In the case of any child who is placed in a qualified residential treatment program for more than 12 consecutive months or 18 nonconsecutive months (or, in the case of a child who has not attained age 13, for more than 6 consecutive or nonconsecutive months), the State/Tribal agency shall submit to the Secretary the most recent versions of the evidence and documentation specified at the permanency hearing and the signed approval of the head of the State/Tribal agency for the continued placement of the child in that setting.</p>	

Federal Regulatory/ Statutory References ¹	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
475A(c)	<p>Q. PLACEMENT IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM.</p> <p>1. In the case of any child who is placed in a qualified residential treatment program (as defined in section 472(k)(4)), case plan for the child and the case system review procedure for the child must:</p> <p>a. Assess the strengths and needs of the child within 30 days of the start of each placement, using an age-appropriate, evidence-based, validated, functional assessment tool approved by the Secretary;</p> <p>b. Determine whether the needs of the child can be met with family members or through placement in a foster family home or, if not, which setting from among the settings specified in section 472(k)(2) would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the</p>	<p>21-OCFS-ADM-17 Role and Responsibility of the Qualified Individual in New York State</p> <p>SSL 358-a Dependent children in foster care.</p> <p>SSL 393 Court approval of placement in a qualified residential treatment program.</p>

Federal Regulatory/ Statutory References ¹	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	<p>short- and long-term goals for the child, as specified in the permanency plan for the child; and</p> <p>c. Develop a list of child-specific short- and long-term mental and behavioral health goals.</p> <p>2. The state/tribal agency shall assemble a family and permanency team for the child in accordance with the requirements 475A(c). The qualified individual conducting the assessment shall work in conjunction with the family of, and permanency team for, the child while conducting and making the assessment. The family and permanency team shall consist of all appropriate biological family members, relative, and fictive kin of the child, as well as, as appropriate, professionals who are a resource to the family of the child, such as teachers, medical or mental health providers who have treated the child, or clergy. In the case of a child who has attained age 14, the family and permanency team shall include the members of the permanency planning team for the child that are selected by the child in accordance with section 475(5)(C)(iv).</p> <p>3. The State/Tribal agency shall document in the child's case plan—</p>	<p>SSL 409-h Assessment of appropriateness of placement in a qualified residential treatment program.</p> <p>FCA 353.7 Placement in qualified residential treatment programs.</p> <p>FCA 756-b Court approval of placement in a qualified residential treatment program.</p> <p>FCA 1017 Placement of children.</p>

Federal Regulatory/ Statutory References ¹	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	<p>a. the reasonable and good faith effort of the agency to identify and include all the individuals described above on the child's family and permanency team;</p> <p>b. all contact information for members of the family and permanency team, as well as contact information for other family members and fictive kin who are not part of the family and permanency team;</p> <p>c. evidence that meetings of the family and permanency team, including meetings relating to the assessment required 475A(c), are held at a time and place convenient for family;</p> <p>d. if reunification is the goal, evidence demonstrating that the parent from whom the child was removed provided input on the members of the family and permanency team;</p> <p>e. evidence that the assessment required 475A(c)(A) is determined in conjunction with the family and permanency team; and</p> <p>f. the placement preferences of the family and permanency team relative to the assessment that recognizes children should be placed with their siblings unless there is a finding</p>	<p>FCA 1055 Placement.</p> <p>FCA 1055-c Court approval of placement in a qualified residential treatment program.</p> <p>FCA 1091-a Court approval of placement in a qualified residential treatment program.</p> <p>FCA 1097 Court approval of placement in a qualified residential treatment program.</p>

Federal Regulatory/ Statutory References ¹	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	<p>by the court that such placement is contrary to their best interest; and</p> <p>g. if the placement preferences of the family and permanency team and child are not the placement setting recommended by the qualified individual conducting the assessment, the reasons why the preferences of the team and of the child were not recommended.</p> <p>4. If the qualified individual conducting the assessment determines that a child should not be placed in a foster family home, the qualified individual shall specify in writing the reasons why the needs of the child cannot be met by the family of the child or in a foster family home. A shortage or lack of foster family homes shall not be an acceptable reason for determining that the needs of the child cannot be met in a foster family home. The qualified individual also shall specify in writing why the recommended placement in a qualified residential treatment program is the setting that will provide the child with the most effective and appropriate level of care in the least restrictive environment and how that placement is</p>	<p>18 NYCRR 428.3 (b) Uniform case record requirements.</p> <p>18 NYCRR 439.2 Required Assessment.</p> <p>18 NYCRR 439.3 Family and Permanency Team.</p> <p>See Attachment XI Qualified Individual Waiver</p>

Federal Regulatory/ Statutory References¹	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	<p>consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child.</p> <p>5. 'qualified individual' means a trained professional or licensed clinician who is not an employee of the State/Tribal agency and who is not connected to, or affiliated with, any placement setting in which children are placed by the State/Tribal agency. The agency may request that the Secretary waive this requirement in a matter prescribed by the Secretary (See Attachment XI).</p> <p>6. Within 60 days of the start of each placement in a qualified residential treatment program, a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or an administrative body appointed or approved by the court, independently, shall consider the assessment, determination, and documentation made by the qualified individual conducting the assessment, determine whether the needs of the child can be met through placement in a foster family home or, if not, whether placement of the child in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment and whether that placement is</p>	

Federal Regulatory/ Statutory References ¹	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	<p>consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child; and approve or disapprove the placement.</p> <p>7. The case plan shall include documentation of any determination by a qualified individual that a child should not be placed in a foster family home, and the reasons why the needs of the child cannot be met by the family of the child or in a foster family home, and documentation of the determination and approval or disapproval of the placement in a qualified residential treatment program by a court or administrative body.</p>	

Federal Regulatory/ Statutory References	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	SECTION 4. GENERAL PROGRAM REQUIREMENTS	

Federal Regulatory/ Statutory References	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
<p>471(a)(10) and (36)(B), (C) and (D)</p>	<p>A. STANDARDS FOR FOSTER FAMILY HOMES AND CHILD CARE INSTITUTIONS</p> <p>The agency has established or designated a State/Tribal authority(ies) which is responsible for establishing and maintaining standards for foster family homes and child care institutions which are reasonably in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights and which shall permit use of the reasonable and prudent parenting standard.</p> <p>The standards so established are applied by the State/Tribe to any foster family home or child-care institution receiving funds under titles IV-E or IV-B. The standards shall require, as a condition of each contract entered into by a child care institution to provide foster care, the presence on-site of at least 1 official who, with respect to any child placed at the child care institution, is designated to be the caregiver who is authorized to apply the reasonable and prudent parent standard to decisions</p>	<p>20-OCFS-ADM-08 Approval of Emergency Foster Homes and Expanded Waiver Authority</p> <p>19-OCFS-ADM-07 - FFPSA Model Licensing Standards and Updated Forms for the Certification or Approval of Foster/Adoptive Homes</p> <p>18 NYCRR 443.7 Emergency Approved Home Regulations.</p>

Federal Regulatory/ Statutory References	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	<p>involving the participation of the child in age or developmentally-appropriate activities, and who is provided with training in how to use and apply the reasonable and prudent parent standard in the same manner as prospective foster parents are provided the training pursuant to paragraph 471(a)(24).</p> <p>The standards for foster family homes and child care institutions shall include policies related to the liability of foster parents and private entities under contract by the State involving the application of the reasonable and prudent parent standard, to ensure appropriate liability for caregivers when a child participates in an approved activity and the caregiver approving the activity acts in accordance with the reasonable and prudent parent standard.</p> <p>The State/Tribal agency may provide waivers of such standards only on a case-by-case basis for non-safety standards (as determined by the State/Tribe) in relative foster family homes for specific children in care. The State/Tribal agency must describe which standards it most commonly waives, or if the agency has elected not</p>	<p>SSL 20 Powers and duties of the department. SSL 374-b Authority to operate agency boarding home. SSL 374-c Authority to operate group homes. SSL 374-d Authority to operate public institutions for children. SSL 460-b Operating certificates general provisions. SSL 460-c Inspection and supervision. SSL 462 Responsibility for standards.</p>

Federal Regulatory/ Statutory References	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	<p>to waive the standards, the reason for not waiving these standards.</p> <p>State/Tribal agencies that provide such waivers must describe training provided to caseworkers to use the waiver authority and the state/tribal agency process or tools provided to assist caseworkers in waiving non-safety standards per the authority provided in 471(a)(10)(D) to quickly place children with relatives.</p> <p>The agency must describe any steps the agency is taking to improve caseworker training or the process.</p> <p>(Tribes, see section 7)</p>	<p>Ex. L-501 General functions, powers and duties of division (OCFS).</p> <p>18 NYCRR Part 441 General (Amended)</p> <p>18 NYCRR Part 442 Institutions.</p> <p>18 NYCRR 443.2 Authorized agency operating requirements.</p> <p>18 NYCRR 443.3 Certification or approval of foster family homes.</p> <p>18 NYCRR Part 446 Designated emergency foster</p>

Federal Regulatory/ Statutory References	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
		<p>family boarding home care. 18 NYCRR Part 447 Agency operated boarding homes. 18 NYCRR Part 448 Group homes. 18 NYCRR Part 449 Supervised settings. 18 NYCRR Part 451 Group emergency foster care.</p> <p>17-OCFS-ADM-01 Immunity from Liability When Applying the Reasonable and Prudent Parent Standard</p>

Federal Regulatory/ Statutory References	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
		<p>15-OCFS-ADM-21 Supporting Normative Experiences for Children, Youth, and Young Adults in Foster Care: Applying a Reasonable and Prudent Parent Standard</p> <p>OCFS Home Finding Practice Guide, Chapter 4: pg. 4-3</p>
471(a)(36)(A)	The State/Tribal agency shall maintain licensing standards that are in accord with model standards identified by the Secretary, and if not, shall document the reason for the specific deviation and a description as to why having a	19-OCFS-ADM-07 - FFPSA Model Licensing Standards and

Federal Regulatory/ Statutory References	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	<p>standard that is reasonably in accord with the corresponding national model standards is not appropriate for the agency.</p>	<p>Updated Forms for the Certification or Approval of Foster/Adoptive Homes</p>
<p>1355.20(a) 472(c)(1)</p>	<p>1. Foster family home means, for the purpose of title IV-E eligibility, the home of an individual or family:</p> <p>a. that is licensed or approved by the State or Tribal service area in which it is situated as a foster family home (or with respect to foster family homes on or near Indian reservations, by the tribal licensing or approval authority(ies)), that as meets ing the standards established for the licensing or approval; and</p> <p>b. in which a child in foster care has been placed in the care of an individual, who resides with the child and who has been licensed or approved by the State/Tribal agency to be a foster parent that the agency deems capable of adhering to the reasonable and prudent parent standard; that provides 24-hour substitute care for children placed</p>	<p>19-OCFS-ADM-07 - FFPSA Model Licensing Standards and Updated Forms for the Certification or Approval of Foster/Adoptive Homes</p> <p>18-OCFS-ADM-07 - Foster/Adoptive Home Certification or Approval Process</p>

Federal Regulatory/ Statutory References	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	<p>away from their parents or other caretakers; and that provides the care for not more than six children in foster care.</p> <p>c. in which the number of foster children that may be cared for in a foster family home may not exceed six, except at the option of the State/Tribal agency, for any of the following reasons:</p> <p>(i) To allow a parenting youth in foster care to remain with the child of the parenting youth.</p> <p>(ii) To allow siblings to remain together.</p> <p>(iii) To allow a child with an established meaningful relationship with the family to remain with the family.</p> <p>(iv) To allow a family with special training or skills to provide care to a child who has a severe disability.</p>	<p>18-OCFS-ADM-05 - Criminal History Record Checks of Persons 18 Years of Age or Older Residing in Foster Boarding Homes</p> <p>18-OCFS-INF-06 - Family First Prevention Services Act (FFPSA) (P.L. 115-123)</p> <p>SSL 374-b Authority to operate agency boarding homes. SSL 374-c Authority to operate group homes. SSL 375 Requirement of</p>

Federal Regulatory/ Statutory References	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	<p>by the State/Tribal licensing or approval authority(ies) (or with respect to foster family homes on or near Indian reservations, by the tribal licensing or approval authority(ies)), that provides 24-hour out-of-home care for children. The term may include group homes, agency-operated boarding homes or other facilities licensed or approved for the purpose of providing foster care by the State/Tribal agency responsible for approval or licensing of such facilities. Foster family homes that are approved must be held to the same standards as foster family homes that are licensed. Anything less than full licensure or approval is insufficient for meeting title IV-E eligibility requirements. (Tribes, see also section 7)</p>	<p>certificate or license to board children. SSL 376 Certificate to board children and/or minors under age of eighteen years. SSL 377 License to board children. SSL 378 Form, duration and limitation of certificates and licenses. SSL 398.6 Additional powers and duties of commissioners of public welfare and certain city public welfare officers in relation to children.</p>

Federal Regulatory/ Statutory References	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
		<p>SSL 460-b Operating certificates. SSL 462 Responsibility for standards.</p> <p>Ex. L 501 General functions, powers and duties of the division (OCFS).</p> <p>18 NYCRR Part 426 Title IV-E foster care and adoption assistance. 18 NYCRR Part 441 General. 18 NYCRR Part 443 Certification, approval and supervision of</p>

Federal Regulatory/ Statutory References	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
		<p>foster family boarding homes. 18 NYCRR Part 446 Designated emergency foster family boarding homes. 18 NYCRR Part 447 Agency operated boarding homes. 18 NYCRR Part 448 Group homes. 18 NYCRR Part 449 Supervised settings. 18 NYCRR Part 451 Group emergency foster care.</p> <p>09-OCFS-ADM-18 Live Scan Technology for Fingerprinting Foster</p>

Federal Regulatory/ Statutory References	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
		and Adoptive Applicants 08-OCFS-ADM-06 Criminal History Record Checks and Mandatory Disqualifying Crimes (Foster and Adoptive Parents) 07-OCFS-ADM-01 State and National Criminal History Record Checks (for Foster-Adoptive Parents)
1355.20(a)(2) 472(c)(2)	2. Child care institution means a private child care institution, or a public child care institution which accommodates no more than 25 children, and is licensed by the State/Tribe in which it is situated or has been approved by the agency of such the State or tribal	21-OCFS-ADM-04 Qualified Residential Treatment Programs (QRTPs)

Federal Regulatory/ Statutory References	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	<p>licensing authority (with respect to child care institutions on or near Indian reservations) responsible for licensing or approval of institutions of this type as meeting the standards established for such licensing except, in the case of a child who has attained 18 years of age, the term includes a supervised setting in which the individual is living independently.</p> <p>This definition must not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.</p>	<p>and Q RTP Exceptions in New York State</p> <p>SSL 371(22) Supervised setting.</p> <p>SSL 374-d Authority to operate public institutions. SSL 460-b Operating certificates. SSL 460-c Inspection and supervision.</p> <p>Ex. L 501 General functions, powers and duties of the division (OCFS).</p>

	<p>In addition to these requirements, a qualified residential treatment program must be accredited by any of the independent, not-for-profit organizations listed at 472(k)(4)(G) of the Act or any other independent, not-for-profit accrediting organization of a similar type and kind as those already identified in the Act approved by the Secretary (see Attachment XI).</p> <p>(Tribes, see also section 7 for requirements related to 471(a)(10).)</p>	<p>18 NYCRR Part 439 Qualified Residential Treatment Programs.</p> <p>18 NYCRR Part 426 Title IV-E foster care and adoption assistance.</p> <p>18 NYCRR Part 441 General.</p> <p>18 NYCRR Part 442 Institutions.</p> <p>OCFS Eligibility Manual for Child Welfare Programs, (Updated 2021)</p>
<p>472(j)</p>	<p>3. Licensed residential family-based treatment facility for substance abuse, means a treatment facility provides, as part of the treatment for substance abuse, parenting skills training, parent education, and individual and family counseling; and under an organizational structure and</p>	<p>NYS will not be opting to claim IV-E for this requirement at this time.</p>

Federal Regulatory/ Statutory References	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	<p>treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma and in accordance with recognized principles of a trauma-informed approach and trauma-specific interventions to address the consequences of trauma and facilitate healing.</p>	
<p>471(a)(25)&(26)</p>	<p>F. TIMELY INTERSTATE PLACEMENT OF CHILDREN</p> <p>1. The State/Tribal agency shall have in effect procedures for the orderly and timely interstate placement of children which provides that:</p> <p>a. within 60 days after the State/Tribe receives from another State or Tribe a request to conduct a study of a home environment for purposes of assessing the safety and suitability of placing a child in the home, the State or Tribe shall, directly or by contract:</p> <p>i. conduct and complete the study; and</p>	<p>19-OCFS-ADM-08 - Required Forms for Interstate Compact on the Placement of Children (ICPC) Placement Referral</p> <p>18-OCFS-ADM-17 Requirements for Use of the National Electronic Interstate</p>

Federal Regulatory/ Statutory References	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	<p>ii. return to the other State or Tribe a report on the results of the study which shall address the extent to which placement in the home would meet the needs of the child;</p> <p>b. the State or Tribe is not required to complete within the applicable time period the parts of the home study involving the education and training of the prospective foster or adoptive parents;</p> <p>c. the State or Tribe shall treat any such report that is received from another State or Tribe (or from a private agency under contract with another State/Tribe) as meeting any requirements imposed by the State or Tribe for the completion of a home study before placing a child in the home, unless, within 14 days after receipt of the report, the State or Tribe determines, based on grounds that are specific to the content of the report, that making a decision in reliance on the report would be contrary to the welfare of the child; and</p> <p>d. the State or Tribe shall not impose any restriction on the ability of an agency administering, or supervising the</p>	<p>Compact Enterprise (NEICE)</p> <p>SSL §374-a Interstate Compact on the Placement of Children.</p> <p>18 NYCRR 421.14 Waiting lists.</p> <p>18 NYCRR 443.2(g) Interstate placements.</p> <p>97-LCM-16 Interstate Compact on the Placement of Children (ICPC) Procedures to Request an ICPC Priority Home Study</p>

Federal Regulatory/ Statutory References	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	administration of, a State or Tribal program operated under a plan approved under this part to contract with a private agency for the conduct of such a home study.	
471(a)(25)	<p>2. The State shall have in effect procedures for the use of an electronic interstate case-processing system.</p> <p>(Not applicable to Tribes, Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa)</p>	18-OCFS-ADM-17, Requirements for the Use of the National Electronic Interstate Compact Enterprise (NIECE).
471(a)(20)(A)	<p>J. SAFETY REQUIREMENTS</p> <p>1. Safety requirements for foster care, and adoptive home providers.</p> <p>a. The State/Tribal agency provides procedures for criminal records checks (including finger-print-based checks of national crime information databases (as defined in section 534(f) (3)(a) of title 28, United States Code) for any prospective foster and adoptive parent</p>	19-OCFS-ADM-21 - Expansion of Background Checks for Congregate Care Staff Under the Family First

Federal Regulatory/ Statutory References	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
	<p>before the parent may be finally approved for placement of a child regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child.</p>	<p>Prevention Services Act (FFPSA). SSL 378-a Access to criminal conviction records by authorized agencies. 18 NYCRR 421.15 Adoption study process. 18 NYCRR 421.27 Criminal history record checks. 18 NYCRR 443.2 Authorized agency operating requirements. 18 NYCRR 443.8 Criminal history record check.</p>

Federal Regulatory/ Statutory References	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
		<p>07-OCFS-ADM-01 State and National Criminal History Checks (for Foster- Adoptive Parents). 08-OCFS-ADM-06 Criminal History Record Checks and Mandatory Disqualifying Crimes (Foster and Adoptive Parents).</p> <p>09-OCFS-ADM-18 Live Scan Technology for Fingerprinting Foster and Adoptive Applicants.</p>

Federal Regulatory/ Statutory References	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
1356.30(f) 471(a)(20)(D)	d. In order for a child to be eligible for title IV-E funding, the licensing file for a child care institution must contain documentation which verifies that safety considerations with respect to the staff of the institution have been addressed. State/Tribal agency shall provide procedures for any child care institution, including a group home, residential treatment center, shelter, or other congregate care setting, to conduct criminal record checks, including fingerprint-based checks of national crime information databases (as defined in section 534(f)(3)(A) of title 28, United States Code), and checks described in subparagraph (B) of this paragraph, on any adult working child-care institution, including a group home, residential treatment center, shelter, or other congregate care setting, unless the State reports to the Secretary the alternative criminal records checks and child abuse registry checks the State conducts on any adult working in a child-care institution, including a group home, residential treatment center, shelter, or other congregate care setting, and why the checks specified in this subparagraph are not appropriate for the State.	19-OCFS-ADM-21 - Expansion of Background Checks for Congregate Care Staff Under the Family First Prevention Services Act (FFPSA). SSL 378-a Access to conviction records by authorized agencies. SSL 424-a Access to information contained in the statewide central register of child abuse and maltreatment. SSL 460-b Operating certificate.

Federal Regulatory/ Statutory References	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
		<p>SSL 460-c Inspection and supervision.</p> <p>SSL 495 Register of substantiated category one cases of abuse or neglect.</p> <p>18 NYCRR Part 477 Issuance of operating certificates.</p>

Federal Regulatory/ Statutory References	Requirement	State/Tribe Regulatory, Statutory, and Policy References and Citations for Each
<p>479B(c)(2)</p> <p>471(a)(36)</p>	<p>D. LICENSING STANDARDS FOR TRIBAL FOSTER FAMILY HOMES AND CHILD CARE INSTITUTIONS</p> <p>For purposes of complying with section 471(a)(10), an Indian Tribe, Tribal organization, or Tribal consortium shall establish and maintain a tribal authority or authorities which shall be responsible for establishing and maintaining tribal licensing standards for tribal foster family homes and tribal child care institutions in accordance with section 471(a)(36) of the Act.</p>	<p>Not Applicable</p>