

## **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  
**July 2010**

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**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.

<b>Federal Regulatory/</b>	<b>Requirement</b>	<b>State Regulatory, Statutory, and Policy</b>
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Statutory References		References and Citations for Each
	<b>SECTION 2. FOSTER CARE MAINTENANCE PAYMENTS</b>	
475(5)(H)	<p>D. CASE REVIEW SYSTEM</p> <p>1. Case Plan</p> <p>j. during the 90-day period immediately prior to the date on which the child will attain 18 years of age, <b>or such greater age as the State may elect under section 475(8)(B)(iii)</b>, whether during that period foster care maintenance payments are being made on the child's behalf or the child is receiving benefits or services under section 477, a caseworker on the staff of the State/Tribal agency, and, as appropriate, other representatives of the child provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child, includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services, <b>includes information about the importance of designating another individual to make health care treatment decisions on behalf of the child if the child becomes unable to participate in such decisions and the child does not have, or does not want, a relative who would otherwise be authorized under State/Tribal law to make such decisions, and provides the child with the option to execute a health care power of attorney, health care proxy, or other similar</b></p>	<p>SSL 409-e Family service plan.</p> <p>SSL 409-f Uniform case recording.</p> <p>18 NYCRR Part 428 Standards for uniform case records and family and child assessments and service plans.</p> <p>18 NYCRR Part 430.12(j) Diligence of effort.</p> <p>10-OCFS-ADM-10 Title IV-E Foster Care &amp; Adoption to Age 21</p> <p>10-OCFS-ADM-12 Health Care Proxy for Youth Transitioning Out of Care</p> <p>09-OCFS-ADM-16 Transition Plan Requirements for Youth</p>

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	<p><b>document recognized under State/Tribal law, and is as detailed as the child may elect;</b></p>	<p>18 and Older Aging Out of Foster Care</p> <p>09-OCFS-ADM-15 Medicaid Coverage for Final-Discharged Youth 18 to 21 Years of Age</p>
<p><b>475(8)</b></p>	<p><b>M. DEFINITION OF 'CHILD'</b></p> <p><b>For the purposes of the title IV-E foster care program under section 472, the term 'child' means</b></p> <p><b>i. an individual who has not attained 18 years of age; or</b></p> <p><b>ii. at the option of the title IV-E agency an individual</b></p> <p><b>a. who is in foster care under the responsibility of the title IV-E agency</b></p> <p><b>b. who has attained 18 years of age but who has not attained 19, 20, or 21 years of age (as elected and indicated by the title IV-E agency) and</b></p> <p><b>c. who meets any of the following conditions</b></p> <p><b>I. the child is completing secondary education or a program leading to an equivalent credential;</b></p> <p><b>II. the child is enrolled in an institution</b></p>	<p>FCA 355.3 Extension of Placement</p> <p>FCA 756-a Extension of placement</p> <p>FCA 1087 Definitions</p> <p>FCA Article 10-B Former Foster Care Youth Re-Entry Proceedings.</p> <p>10-OCFS-ADM-10 Title IV-E Foster Care &amp; Adoption to Age 21</p> <p>OCFS Eligibility Manual For Child Welfare Programs, (Updated 2010)</p>

	<p>which provides post-secondary or vocational education;</p> <p>III. the child is participating in a program or activity designed to promote, or remove barriers to, employment;</p> <p>IV. the child is employed for at least 80 hours per month; or</p> <p>V. the child is incapable of doing any of the above described activities due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child.</p>	
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Federal Regulatory/ Statutory References	Requirement	State Regulatory, Statutory, and Policy References and Citations for Each
	<b>SECTION 3. ADOPTION ASSISTANCE PAYMENTS</b>	
473(a)(4)	<p>B. PAYMENTS – AMOUNTS AND CONDITIONS</p> <p>5. Payments are terminated when the title IV-E agency determines that:</p> <p>a. the child has attained the age of 18, or such greater age as the State may elect under section 475(8)(B)(iii); or</p>	<p>SSL 453 Maintenance subsidy; handicapped or hard to place child.</p> <p>18 NYCRR 421.24 Adoption with subsidy</p>

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	<p><b>b. the child has attained 21 years of age, if the title IV-E agency determines that the child has a mental or physical disability which warrants the continuation of assistance to age 21; or</b></p> <p><b>c. the child has not attained 18 year of age, if the title IV-E agency determines that the parents are no longer legally responsible for the support of the child; or</b></p> <p>d. the child is no longer receiving any support from the adoptive parents.</p>	<p>18 NYCRR Part 426 Title IV-E foster care, adoption assistance, and kinship guardianship assistance.</p> <p>10-OCFS-ADM-10 Title IV- E Foster Care &amp; Adoption to Age 21</p> <p>09 OCFS-ADM-11 Adoption Subsidy and Education Requirements for Adopted Children</p> <p>OCFS Eligibility Manual For Child Welfare Programs, (Updated 2010)</p>
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<p><b>475(8)</b></p>	<p><b>G. DEFINITION OF 'CHILD'</b></p> <p><b>For the purposes of the title IV-E adoption assistance program under section 473, the term 'child' means</b></p> <p><b>i. an individual who has not attained 18 years of age; or</b></p> <p><b>ii. at the option of the title IV-E agency an individual</b></p> <p><b>a. with respect to whom an adoption assistance agreement is in effect under section 473 if the individual had attained age 16 before the adoption assistance agreement became effective and</b></p> <p><b>c. who meets any of the following conditions:</b></p> <p><b>I. the child is completing secondary education or a program leading to an equivalent credential;</b></p> <p><b>II. the child is enrolled in an institution which provides post-secondary or vocational education;</b></p> <p><b>III. the child is participating in a program or activity designed to promote, or remove barriers to, employment;</b></p> <p><b>IV. the child is employed for at least 80</b></p>	<p>SSL 451 Definitions</p> <p>18 NYCRR 421.24 (a)(1) Definition of child.</p> <p>10-OCFS-ADM-10 Title IV-E Foster Care &amp; Adoption to Age 21</p> <p>OCFS Eligibility Manual For Child Welfare Programs, (Updated 2010)</p>
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	<p>hours per month; or</p> <p><b>V. the child is incapable of doing any of the above described activities due to a medical condition.</b></p>	
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Federal Regulatory/ Statutory References	Requirement	State Regulatory, Statutory, and Policy References and Citations for Each
	<b>SECTION 4. GENERAL PROGRAM REQUIREMENTS</b>	
	A. STANDARDS FOR FOSTER FAMILY HOMES AND CHILD CARE INSTITUTIONS	
<p><b>1355.20(a)(2)</b> <b>472(c)(2)</b></p>	<p>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 or Tribe in which it is situated or has been approved by the agency of such State or Tribal 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, <b>except, in the case of a child who has attained 18 years of age, the term includes a supervised</b></p>	<p>SSL 374-d Authority to operate public institutions.</p> <p>SSL 460-b Operating certificates.</p> <p>SSL 460-c Inspection and supervision.</p> <p>ExL 501 General functions, powers and duties of the</p>

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**independent living setting in which the individual is living independently.**

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.

(Tribes, see also section 7 for requirements related to 471(a)(10).)

division (OCFS).

18 NYCRR Part 426  
Title IV-E foster care and  
adoption assistance.

18 NYCRR Part 441  
General.

18 NYCRR Part 442  
Institutions.

OCFS Eligibility Manual for  
Child Welfare Programs,  
(Updated 2010)

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Federal Regulatory/ Statutory References	Requirement	State Regulatory, Statutory, and Policy References and Citations for Each
	SECTION 6. GUARDIANSHIP ASSISTANCE PROGRAM OPTION	
473(a)(4)(A)	<p>B. PAYMENTS</p> <p><b>3. Payments are terminated when the title IV-E agency determines that:</b></p> <p><b>a. the child has attained the age of 18, or such greater age as the title IV-E agency may elect under section 475(8)(B)(iii); or</b></p> <p><b>b. the child has attained 21 years of age, if the title IV-E agency determines that the child has a mental or physical disability which warrants the continuation of assistance to age 21; or</b></p> <p><b>c. the child has not attained 18 year of age, if the title IV-E agency determines that the relative guardians are no longer legally responsible for the support of the child; or</b></p> <p><b>d. the child is no longer receiving any support from the relative parents.</b></p>	<p>SSL 458-b Kinship guardianship assistance payments.</p> <p>18 NYCRR 436.5 Payment of kinship guardianship assistance.</p>

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<p><b>473(a)(4)(B)</b></p>	<p><b>4. The relative guardians are required to inform the State/Tribal agency of circumstances that would make them ineligible for guardianship assistance payments or eligible for guardianship assistance payments in a different amount.</b></p>	<p>SSL 458-b Kinship guardianship assistance payments.</p> <p>18 NYCRR 436.4 Kinship guardianship assistance and nonrecurring guardianship expenses agreement.</p>
<p><b>475(8)</b></p>	<p><b>F. DEFINITION OF 'CHILD'</b></p> <p><b>For the purposes of the title IV-E guardianship assistance program under section 473(d), the term 'child' means</b></p> <p><b>i. an individual who has not attained 18 years of age; or</b></p> <p><b>ii. at the option of the title IV-E agency an individual</b></p> <p style="padding-left: 40px;"><b>a. with respect to whom an guardianship assistance agreement is in effect under section 473(d) if the individual had attained age 16 before the adoption assistance agreement became effective and</b></p> <p style="padding-left: 40px;"><b>c. who meets any of the following conditions:</b></p> <p style="padding-left: 80px;"><b>I. the child is completing secondary education or a program leading to an</b></p>	<p>SSL 458-b Kinship guardianship assistance payments.</p> <p>18 NYCRR 436.5 Payment of kinship guardianship assistance.</p>

	<p><b>equivalent credential;</b></p> <p><b>II. the child is enrolled in an institution which provides post-secondary or vocational education;</b></p> <p><b>III. the child is participating in a program or activity designed to promote, or remove barriers to, employment;</b></p> <p><b>IV. the child is employed for at least 80 hours per month; or</b></p> <p><b>V. the child is incapable of doing any of the above described activities due to a medical condition.</b></p>	
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