

## Kin-First Firewall FAQ

**Questions added 3/1/21**

- 1. Q: How does a kin-first firewall practice impact youth being placed as juvenile delinquents (JD) or persons in need of supervision (PINS)?**

**A:** As with all youth placed in the care and custody of the local department of social services (LDSS), a determination as to the least restrictive appropriate placement setting, consistent with any court order, must be made. This would include whether a kinship placement would be safe, appropriate and in the child's best interests. Such factors must be assessed on a case-by-case basis as part of the kin-first firewall (firewall) process. The process should not prolong any PINS pre-dispositional placement or detention stay for JD youth and should be a continuous assessment and review throughout the placement.

- 2. Q: If we are exploring kin in another state and looking for ICPC approval for that kin, must we wait for the approval before we have the secondary review meeting?**

**A: No,** a secondary review meeting is not necessary because a firewall process is not required for **kinship** ICPC placements. Kinship ICPC placements are any placements with a relative or a person with whom the child or child's family has a positive relationship (fictive kin). This is broader than the definition of relative placement typically used for ICPC placements.

For any non-kin ICPC placement, LDSSs and voluntary authorized agencies (VAs) have the flexibility to implement their firewall protocol before or after the approval of the out-of-state placement. LDSSs and VAs should develop a firewall process that, while thorough, does not unnecessarily delay ICPC placements.

- 3. Q: How soon after removal must the secondary review occur?**

**A:** The ADM does not require a specific timeframe in which the secondary review must occur. It is recommended that the review occur as soon as practicable, after initial efforts are made to locate and engage kin. The goal is to make the first placement a kinship placement.

- 4. Q: Does this ADM require that if a child is in a safe and appropriate home and emergency approval is not completed within 90 days, the LDSS has to move the child somewhere else? Can an extension be provided for emergency approved homes?**

**A:** Requirements related to the failure to meet full approval requirements within 90 days are outlined in regulation [18 NYCRR 443.7]. The Kin-First Firewall ADM does not impact these requirements. If the emergency foster parent(s) fail to meet all requirements for full approval (exceptions are described below) then the LDSS may explore other options with the kin resource for care of the child(ren). Other options include exploring a direct custodial placement by the court. If the child is to remain in foster care, then the emergency approval must be revoked and the child placed in a suitable certified or approved foster boarding home.

The emergency foster boarding home (FBH) may continue to provide foster care beyond the 90<sup>th</sup> day if the foster parent(s) has otherwise satisfied all the requirements for full approval except for receipt of the results of the Statewide Central Register (SCR), Staff Exclusion List (SEL), and/or criminal history record checks [18 NYCRR 443.7(h)]. Additionally, pre-service training may be completed after the 90-day period.

Additional flexibility is authorized for approved homes for non-safety waivers. LDSSs may approve requests to waive requirements that are non-safety and not statutorily required.

**5. Q: Can an LDSS decide on waiver parameters or are waivers limited to just those identified by OCFS?**

**A:** Waivers are approved by the LDSS for approved foster boarding homes and are not determined by OCFS. According to regulations, a waiver is an exemption to any non-safety, non-statutory, regulatory requirement for approving a foster home. A waiver must be:

- necessary to board a foster child;
- in the best interests of the child; and
- consistent with the health, safety and welfare of the child  
[NYCRR 443.3(b)(16)]

The LDSS must review the waiver request and determine whether such request meets the above criteria. The ADM “*Approval of Emergency Foster Boarding Homes and Expanded Waiver Authority*” ([20-OCFS-ADM-08](#)) provides the full process to request a waiver.

**6. Q: Can LDSSs use virtual foster parent training? Does OCFS offer this?**

**A:** Yes, there are currently two programs available and authorized for certified leaders to use on a virtual platform: GPSII/MAPP and Deciding Together. OCFS is providing leader certification training for both programs.

**7. Q: Are there trainings for kin relatives applying to become approved as foster parents?**

**A:** Caring for our Own is an approved OCFS kinship training. While not developed specifically for this purpose, Deciding Together is also an approved OCFS training that may be used for kin. Speak to your Regional Office regarding specific training questions.

**8. Q: Is there an approved list of in-service kinship trainings?**

**A:** Currently, there is not an approved list of in-service kinship trainings; however, there are trainings geared toward kinship caregivers. Some of these can be found through the HSLC. Others are located at <http://www.hslcnys.org/fosterparenttraining/>. For more information, please contact your Regional Office.

**9. Q: Can LDSSs and VAs have additional time to fully implement the kin-first firewall if they are experiencing delays or challenges due to COVID-19?**

**A:** The ADM requires that LDSSs and VAs update their kinship policy to include their firewall process and submit the updated policy to their Regional Office by Jan. 14<sup>th</sup>. The ADM does not require a specific effective date, but the expectation is that the firewall process should begin as soon as possible. LDSSs and VAs should indicate in their policy when the anticipated start date is and any barriers that exist.

**10. Q: Are there any additional flexibilities around requirements to approve or certify foster boarding homes during the COVID-19 public health emergency?**

**A:** Yes. Please see the [COVID FAQs and Guidance](#) page on the OCFS website. The following is a link specific to guidance for new foster parent approval/certification and annual reauthorizations for certified or approved foster boarding homes:

[COVID-2020Apr10-Guidance-Foster-Parent-Cert-Reauth.pdf \(ny.gov\)](#)

**11. Q: When implementing the Kin-First Firewall and Blind Removal ADMs, how can LDSSs take into account and address the overlap between the blind removal process and the firewall?**

**A:** As LDSSs are reviewing cases during the blind removal process, family members must be considered if it is determined that a removal is necessary. Efforts made to identify and engage kin during the blind removal process will help complete the firewall if one becomes necessary because kin placement is not achieved. LDSSs should consider opportunities for streamlining the blind removal and firewall practices within existing processes.

**Questions added 10/14/20**

**12. What is a “non-kinship placement request”?**

A non-kinship placement request refers to the communication between staff involved in the placement decision and the secondary level reviewer(s) about the necessity of a non-kinship placement. This may be verbal or written. LDSSs and VAs may formalize this process by developing a form and checklist, holding meetings or simply having informal discussions about efforts to achieve kinship placements. The documentation of having made the request, whether verbal or written, must be included in the child’s case record in CONNECTIONS. The goal is to provide comprehensive information about the efforts that have been made to determine whether non-kinship placement is necessary or whether additional actions should be taken to achieve a kinship placement.

**13. What efforts must be made to place a child with kin before a non-kinship placement request is approved?**

Certain efforts to place a child with kin are required by statute and regulation.<sup>1</sup> A non-kinship placement request must be granted only temporarily while such efforts are underway (if a kinship placement cannot be immediately secured). LDSSs and VAs **must**, at a minimum, meet the following legal requirements to identify, notify and inform kin of their options:

Within 30 days of a child’s removal, or earlier if directed by a court, LDSSs must exercise due diligence in identifying relatives, notifying them of the child’s removal and providing information on options under which they may provide care for the child, including foster care and non-foster care options. Persons requiring such notification are

- the child’s grandparents;
- all parents of a sibling of the child with legal custody of such sibling;<sup>2</sup> and
- other adult relatives, including adult relatives suggested by the child’s parent(s).

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<sup>1</sup> FCA §1017, 18 NYCRR 430.11(c)(4).

<sup>2</sup> [https://ocfs.ny.gov/main/policies/external/OCFS\\_2015/ADM/15-OCFS-ADM-01](https://ocfs.ny.gov/main/policies/external/OCFS_2015/ADM/15-OCFS-ADM-01).

During a child protective proceeding under Article 10 of the Family Court Act, the court will also require LDSSs to notify

- any non-respondent parent of the child,
- all relatives or suitable persons identified by the child's parent(s), and
- any relative identified by a child older than 5 as a relative with a significant positive role in the child's life.

#### Informing Kin of Their Options

After kin are located, LDSSs and VAs are required to meaningfully inform kin about their caregiving options. Kin must decide whether to become a caregiver, how to take custody and what their choice means in terms of their decision-making authority, access to financial support, relationship with the LDSS and/or VA, and available long-term permanency outcomes. Potential kinship caregivers may feel pressured to decide quickly, may not fully understand the implications of their decisions and may not be sure what questions to ask. It is for these reasons that the caseworker should review the materials with the potential kinship caregivers, while affording them the time to ask questions and seek guidance. Supporting kinship caregivers in making an informed decision is not an event but rather a process that may require more than one visit with the caregiver.

OCFS has produced informational materials to help aid the conversation. LDSSs and VAs should be sure to review OCFS policy and ensure that the mandated publications are provided to kin who are identified as possible caregivers.<sup>3</sup>

#### **14. How does a kin-first firewall work if the child is removed on an emergency basis?**

There should be clear protocols for identifying and notifying kin immediately during an emergency removal. If the kin caregiver chooses to become a foster parent, the home should be evaluated for potential approval as an emergency foster boarding home. Approving emergency foster boarding homes allows LDSSs and VAs to immediately place a child who must be removed from their home with kin while providing the kin with the supports that a fully approved foster boarding home receives. LDSSs/VAs can approve an emergency foster boarding home by completing, evaluating and approving an expedited home study.

All approved foster boarding homes,<sup>4</sup> including approved emergency foster boarding homes, are eligible for non-safety waivers.<sup>5</sup> Waivers are particularly important for emergency placements when kin may not have time to meet all regulatory requirements for approval. A waiver may be requested when an LDSS or VA determines such waiver is necessary to place the child, is in the child's best interests and is consistent with the health, safety and welfare of the child. A waiver must be approved by supervisory staff within the LDSS who do not have direct case management responsibilities over the child.

The process for approving emergency foster boarding homes and requesting waivers is outlined in [20-OCFS-ADM-08, Approval of Emergency Foster Boarding Homes and Expanded Waiver Authority](#).

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<sup>3</sup> [https://ocfs.ny.gov/main/policies/external/ocfs\\_2018/ADM/18-OCFS-ADM-23.pdf](https://ocfs.ny.gov/main/policies/external/ocfs_2018/ADM/18-OCFS-ADM-23.pdf).

<sup>4</sup> Relatives may be approved, rather than certified, for foster boarding home care. A relative is: (1) an adult who is related to the parent or stepparent(s) of a child through blood, marriage, or adoption to any degree of kinship; (2) an adult with a positive relationship to the child or child's family, including but not limited to a child's godparent, neighbor, family friend; or (3) an unrelated person where placement with such person allows half siblings to remain together in an approved foster home, and the parents or stepparents of one of the half siblings is a relative of such person. (18 NYCRR 443.1(h)).

<sup>5</sup> 18 NYCRR 443.3(16).

Situations will arise where a child is removed on an emergency basis and no kinship placement resource is immediately available. An emergency non-kinship placement is intended to be temporary while efforts to identify, notify and engage kin are underway.

It is expected that, in emergency removals where a kinship placement is not possible, LDSSs and VAs will utilize certified foster boarding homes, as appropriate for the needs of the child, over congregate care. Designated emergency foster boarding homes may be useful in addressing this need. Such homes are exclusively designated to provide temporary care and services to children who enter foster care in a crisis situation that is expected to be resolved within 60 days so that the child(ren) can be reunited with their family.<sup>6</sup>

### **15. What specific actions and strategies should occur to locate and engage kin as potential placement resources?**

LDSSs and VAs must consider and make clear what actions, beyond those mandated (see question #2), are expected of staff prior to requesting a non-kinship placement. The following are just some examples of actions and strategies that are strongly encouraged to locate and engage kin.

#### Locate Kin

- Search for any nonrespondent parent and paternal relatives who may not be immediately identifiable. See [05-OCFS-INF-05, \*Locating Absent Fathers and Extended Family Guidance Paper\*](#) for comprehensive information on identifying and locating absent fathers and extended family of children involved in the child welfare system. This includes:
  - contacting the Prison Locator Service System (518-457-0034) to find out whether the father is incarcerated in New York State,
  - contacting the Putative Father Registry (800-345-5437) and
  - checking the Welfare Management System (WMS) for information, including the names of people the father may have lived with in the past who may also be contacted for help locating the father and other resources.
- Contact resources identified in previous child protective, preventive and foster care case records, including available databases (i.e., CONNECTIONS, Juvenile Justice Information System for Child Welfare).
- Search child support records, school records and the child's medical records, and conduct internet and social media searches.
- Speak with children, maternal and paternal relatives, and other collateral contacts (i.e., school staff, health care providers, neighbors, etc.) who can assist in identifying potential kin resources.
- Utilize genograms to facilitate discussion and identification of kin as needed.

#### Engage Kin

- Practice positive parental engagement. To the extent feasible, birth parents should be treated as partners in identifying placement resources for their child(ren). An effective approach is to inform birth parents of their right to identify kin who they would want to provide care to their child. The parent is more likely to cooperate when feeling empowered rather than helpless in the situation.
- Engage in ongoing meaningful discussions with parents, household members and the child to identify additional kin resources.
- Hold family team meetings to engage extended family members who may identify and become potential placement resources.
- Fully inform kin resources about their choices for caring for the child, including providing all required information (see question #2) and answering all questions the kin may have. While this must happen at first contact, the caseworker should make clear who is available to answer questions going forward and how such person(s) can be contacted.

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<sup>6</sup> 18 NYCRR Part 446.2(a)

Identification and engagement of kin need not wait until a child is removed or removal is imminent. Engagement should also take place during the child protective investigation and during the provision of preventive services. By working with the family to identify their support network, future placement resources may be identified.

## **16. How should kin-first firewall policies address barriers to kinship care?**

An effective kin-first firewall is one in which solutions are identified for each obstacle that may prevent kin placement. A non-kinship placement request should not be granted unless all possible and appropriate solutions have been pursued. The following are examples of troubleshooting barriers to kin placement:

- Utilizing waiver authority<sup>7</sup> when necessary for kin eligible for approval as foster parents. While waivers are not authorized for certified homes, regulations allow flexibility for all foster boarding homes caring for siblings or renting rooms to lodgers or boarders.<sup>8</sup> For more information on waivers and exceptions, see ([20-OCFS-ADM-08, Approval of Emergency Foster Boarding Homes and Expanded Waiver Authority](#)).
- Maintaining clear protocols for conducting safety assessments for any non-mandatory disqualifying crime discovered during a criminal history record check. See [16-OCFS-ADM-20, Fingerprinting and Criminal History Record Checks for Foster and Adoptive Parents](#).
- Purchasing services and/or items necessary to meet regulatory requirements for approval or certification as foster parents, such as those relating to fire safety requirements, sleeping arrangements, car seats, medical clearances and transportation.
- Providing flexible and specialized trainings for kin caregivers desiring to become foster parents.
- Assisting the caregiver in applying for benefits to alleviate concerns about the costs of caregiving (particularly for kin opting to provide care outside of the foster care system).
- Linking caregivers to community resources (i.e., peer support groups).
- Being responsive to kin resources. Always maintain an open line of communication to immediately address issues and concerns as they arise.

It is critical that barriers to kinship placement be addressed as quickly as possible. LDSSs and VAs should consider how they can quickly meet the needs of kin so that they may become caregivers. A “triage model” has proven successful at increasing safe and appropriate kinship placements. This model brings together key partners on a case to provide rapid assessment and support of kinship placements. Members may include, but are not limited to, staff with the following roles: child protective worker, intake worker, supervisor, permanency worker, home-finder and family finding specialist. The team collaborates to complete assessments and necessary documentation, and to stabilize placements so that permanency can be achieved sooner.

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<sup>7</sup> 18 NYCRR 443.3(16).

<sup>8</sup> 18 NYCRR 443.3(a).