



South Carolina Department of Social Services

Child Welfare Services Manual

750.3 License Waivers

Effective Date: 07-21-2016

Purpose Statement:

In certain limited circumstances, waivers must be granted to foster families for purposes of fairness and flexibility. This section details the circumstances in which such waivers may be granted and monitored.

Policy:

1. The race, color, national origin, religion, state of residence, age, disability, political belief, sex, or sexual orientation of the applicant and/or the child involved may not be considered in making decisions about granting or denying a waiver. Culture may not be used as a proxy for race, color, or national origin in making such decisions.
2. Federal law mandates that when foster children are in placements that do not meet the state's full licensure requirements, such as during a waiver period, federal funding is not to be used for board payments.
3. There are several circumstances for which a temporary waiver may be issued to a licensed home (in all events, a child must already be placed in the home and it must be contrary to his or her best interests to leave the home while the deficiencies are corrected):
 - a. the family moves into a new home without time to have the home inspected for fire or safety and health or sanitation requirements;
 - b. a household member reaches the age of 18 and has not yet obtained background clearance from FBI fingerprinting;
 - c. an adult has joined the household prior to the agency's receipt of background checks. No unrelated lodger or boarder shall be allowed to move into a foster home without the agency's approval. Foster children may remain in the home or be placed in the home where there is an unrelated boarder or lodger only after background checks have been returned clear. If children are already in the home, an affidavit must be submitted confirming that the person has no record;
4. Waivers are granted for these situations for up to ninety days and no additional children may be placed in the home during this period.

5. Waivers may also be granted in certain circumstances when the number of children exceeds five. The number of children can exceed five only if:
 - a. the department is attempting to keep siblings together;
 - b. the foster children are in the process of being adopted by the foster family; or
 - c. it has been court ordered.
6. The foster home must have a current Standard license at the time the waiver is being requested. No additional children may be placed until the waiver circumstance is corrected. This license can be continued until the number of children satisfies licensing requirements.
7. Foster parents have a responsibility to inform the agency of situations that can impact licensing requirements, such as moving, a family member about to turn 18 (or 12 for purposes of searching the sex offender registry), and new persons joining the household. In general, there should be few instances in which a foster family does not have time to include the agency in planning for changes.

Procedures:

1. Within two days of learning of the need for a waiver due to move or background checks, the FSC shall:
 - a. Visit any new residence to document ongoing compliance with sleeping arrangements;
 - b. Observe any new residence to document that safety hazards are not present and confirm that appropriate inspections have been scheduled;
 - c. Initiate requests for any needed background clearance checks;
 - d. Inform the family that no additional children can be placed until a further licensing decision is rendered; and
 - e. Inform the family that, until the situation is amended, board payments may be rescinded.
2. When there is a need for placement of one or more children into a home which will cause an excessive number of children in the home, the FSC shall, within two days of learning of the placement plan:
 - a. visit the home to confirm that sleeping arrangements are in compliance the Standards of Care;
 - b. review the fire inspection report to determine if the additional children will be contrary to fire marshal safety recommendations. If approval is needed, FSC shall contact the State Fire Marshal the same day; and
 - c. inform the family that no other children will be placed while the temporary waiver is in effect.
3. The FSC shall staff the case with his or her supervisor and recommend approval or denial of the waiver.
4. If a waiver is granted, the FSC shall include specific language that reflects the expiration date and the reason for the temporary waiver.
5. The FSC shall document all contacts and consultations in CAPSS dictation.

6. The FSC shall notify placement staff of the waiver so the family will not be contacted for further placement while the waiver is in effect.
7. The FSC shall notify the Foster Care/IFCCS Worker(s) of all children in the home as soon as a waiver is requested and throughout the waiver process.

Foster Families Who Refuse to Share Information or Cooperate

The Foster Family and Licensing Support Coordinator (FSC) shall document that he or she has evaluated any foster home situation in which the family either chooses not to share information about changes, and/or has a pattern of unplanned moves. If a pattern or uncooperative attitude by the family is detected, the FSC shall staff the issue of continuance of the license with his or her supervisor.

Documentation:

- All contacts with the child and family
- Correspondence with agency staff
- Copies of background checks and/or inspections
- Results of staffing(s)

Legal Citations:

Multi-Ethnic Placement Act & Interethnic Adoption Provisions

- 42 U.S.C.A. § 671(a)(18): general mandates
- 42 U.S.C.A. § 622(b)(7): diligent recruitment
- 42 U.S.C.A. § 674 & 45 C.F.R. § 1355.38: enforcement
- 42 U.S.C.A. § 1996b: Title VI violations
- 42 U.S.C.A. § 2000a et seq.: Title VI of the Civil Rights Act

The Americans with Disabilities Act

- 29 U.S.C.A. § 794: Section 504 of the Rehabilitation Act of 1973
- 29 U.S.C.A. § 705(20)-(21): Section 504 definition of disability
- 42 U.S.C.A. § 12102: ADA definition of disability
- 42 U.S.C.A. § 12103: ADA definition of auxiliary aids and services
- 42 U.S.C.A. §§ 12131-12134: ADA Title II, Public Services
- 42 U.S.C.A. §§ 12181-12189: ADA Title III, Public Accommodations
- 28 C.F.R. § 35.101 et seq.: ADA Title II regulations
- 28 C.F.R. § 36.101 et seq.: ADA Title IV regulations
- 28 C.F.R. § 42.501 et seq.: Section 504 DOJ regulations
- 45 C.F.R. § 84.1 et seq.: Section 504 DHHS regulations
- 42 U.S.C.A. § 671(a)(10): licensing standards, RPP requirements
- 42 U.S.C.A. § 671(a)(20): background check requirements, databases, and registries
- 45 C.F.R. § 1356.30: background check requirements
- S.C. Code Ann. § 63-7-2310: FP contact, other adult notification & contact, FP cooperation

- S.C. Code Ann. § 63-7-2340: fingerprinting
- S.C. Code Ann. § 63-7-2345: payment of FBI fingerprinting
- S.C. Code Ann. § 63-7-2350: restrictions (child abuse, certain crimes)
- S.C. Code Ann. § 63-7-2360: minor sex offenders in the home
- S.C. Code Ann. § 63-7-2380: foster parent training
- S.C. Code Ann. § 63-11-70: background checks; pardons
- S.C. Code Reg. § 114-550: licensing regulations