



South Carolina Department of Social Services

Child Welfare Services Manual

742. Application Determination

Effective Date: 07/21/2016

Purpose Statement:

The final determination whether to license a prospective foster family should be made impartially and consistently, with sole and thorough attention being given to the family's ability to perform the responsibilities of foster parenting. Accordingly, this section lays out the policies and procedures that shall govern this decision-making process and, if applicable, the issuance of the license.

Policy:

- A. A license shall be issued to qualifying foster family applicants within 120 days of the receipt of the intake form. If, despite all efforts by the DSS, the license determination has not been made, explicit documentation must be entered into the CAPSS record detailing the reasons.
- B. A license will not be issued if, after notification of and assistance to resolve identified problems:
 - a. Licensing requirements are not met;
 - b. Standards of care are not or cannot be maintained; or
 - c. The agency determines that it would be detrimental to place children in the home.
- C. No individual shall be denied the opportunity to become a foster or adoptive parent solely on the basis of race, color, national origin, religion, state of residence, age, disability, political belief, sex, or sexual orientation. Neither of these opportunities shall be delayed on the above bases.
- D. All prospective foster parents with disabilities shall be given full and equal opportunities to become foster parents and shall be entitled to individualized treatment. If necessary to facilitate a full and equal opportunity, foster parents with disabilities shall be entitled to auxiliary aids and services.

Procedures:

A. Determination & Approval

- 1. As soon as possible after the submission of the completed home study the ILC and ILS will staff the case and discuss the recommendations of the ILC.
- 2. The ILC will recommend foster parent applicants who meet the following criteria:
 - a. Licensing requirements;
 - b. Meet and maintain the standards of care.
 - c. Undertake and effectively perform the responsibilities of foster parenting; and

- d. Work and advocate with the DSS and other agencies on behalf of foster children placed in their homes.
3. The ILC will not recommend foster parent applicants:
 - a. Who have a substantiated history of child abuse or neglect;
 - b. Who have a household member with a substantiated history of child abuse or neglect;
 - c. Who have been convicted, pled guilty, or pled nolo contendere to an offense identified in SC Code Ann. § 60-7-2350;
 - d. Who have a household member who has been convicted, pled guilty, or pled nolo contendere to an offense identified in SC Code Ann. § 60-7-2350;
 - e. Who have been pardoned for a crime listed in S.C. Code Ann. § 60-7-2350 and a review of the applicant's pardoned convictions, pleas, and circumstances lead to a determination that the applicant is unfit;
 - f. Who have a household member who has been pardoned for a crime listed in S.C. Code Ann. § 60-7-2350 and a review of the individual's pardoned convictions, pleas, and circumstances lead to a determination that the individual is unfit;
 - g. Who have been convicted in the previous five years of a felony involving physical assault, battery, or a drug-related offense;
 - h. Who are listed on the National Sex Offender Public Website;
 - i. Who have a household member (including minors) who are listed on the National Sex Offender Public Website;
 - j. Have not corrected fire inspection report deficiencies;
 - k. When the completed assessment indicates that the applicant lacks or fails to demonstrate one or more parenting characteristics;
 - l. When the medical report for an applicant or another household member does not recommend approval of the person to provide care for foster children. If the agency disagrees with a recommendation, then the agency may request a second opinion. DSS as the licensing agency has the authority to review recommendations and may disagree with conclusions regarding an ability to serve as a caretaker;
 - m. When an applicant or household member has a criminal history that has been reviewed and the application subsequently denied by DSS;
 - n. When a completed assessment indicates the applicant(s) lacks or fails to maintain Standards of Care.
 - o. When the applicant is notified and assisted regarding identified problems but fails to take action or meet licensing requirements.
4. If the ILC cannot recommend the applicant to be licensed, the file and CAPSS record should contain documentation that the ILC discussed potential barriers with the family and (1) that discussion with the family resulted in a written confirmation of withdrawal or (2) if resolution was not possible and the family did not choose to voluntarily withdraw.
5. The ILC shall explain the agency's decision to the applicant. If the application is denied, the ILC shall prepare a letter denying the application that explains the right to appeal. Before sending the letter to the family, the ILC shall forward the letter to the Office of General Counsel for review prior to the State Director or designee signing the letter. If the applicant is interested in appealing the decision, the procedures listed in

Section 780 are to be followed. Refer to [Section 780: Appeal of an Adverse Agency Decision](#).

6. If a license is to be issued, the ILC shall notify the Program Coordinator of the Regional Foster Family and Licensing Support unit who will have oversight of the licensed home for initiation of visits and support. Refer to [Section 760.1: Home Visits and Foster Family Contacts](#).
7. All updates and documentation shall be made in CAPSS Licensing screen, including the status date and license expiration date.

B. Withdrawal of an Application:

When an applicant requests that his or her request for licensing be withdrawn, the ILC shall:

1. confirm that the applicant was not denied the opportunity to become a foster parent on the basis of race, color, national origin, religion, state of residence, age, disability, political belief, sex, or sexual orientation;
2. discuss the reasons for the decision with the applicant and, if appropriate, attempt to resolve any identified problems or concerns;
3. staff the withdrawal with the ILS;
4. within 10 days of the request by the applicant, send a letter to the applicant stating the ILC's understanding of the reason for withdrawal;
5. document in CAPSS all activities associated with the withdrawal.

Documentation:

- Copies of assessment documentation
- Supporting information regarding application determination

Legal Citations:

Multi-Ethnic Placement Act & Inter-ethnic 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. § 63-7-2340: 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. § 63-11-70: background checks, pardons