**ANNEX A**

**TITLE 55 – PUBLIC WELFARE**

**PART V – CHILDREN, YOUTH AND FAMILIES MANUAL**

**CHAPTER 3700 – FOSTER FAMILY CARE AGENCY**

**INTRODUCTION**

**3700.1. Applicability.**

 (a)  This chapter applies to:

   (1)  An agency operated by a person, organization, corporation or society, public or private, for profit or not-for-profit, which approves or supervises foster families or provides foster family care.

   (2)  An individual providing foster family care to children placed by an approved foster family care agency.

 (b)  This chapter does not apply to agencies and homes licensed or approved by the Department’s Offices of Mental Health and Mental Retardation.

####  3700.2. Goal.

The goal of this chapter is to reduce risk to children in placement; to protect their health, safety and human rights; to establish minimum requirements for the operation of a foster family care agency; and to establish minimum requirements to be applied by foster family care agencies when approving and supervising foster families.

#### 3700.3. Legal base.

 The legal base of this chapter is Articles II, VII and IX of the Public Welfare Code (62 P. S. § §  201—211, 701—774 and 901—922); 42 Pa.C.S. § §  6301—6365 (relating to the Juvenile Act); and the Child Protective Services Law (23 Pa.C.S. § §  6301—6384) (relating to the Child Protective Services Law).

#### 3700.4. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

   *Child*—An individual who:

(i)   Is under 18 years of age.

(ii)   Is under 21 years of age, committed an act of delinquency before reaching 18 years of age and remains under the jurisdiction of the juvenile court.

(iii)   Is under 21 years of age, was adjudicated dependent before reaching 18 years of age, and while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed.

   *County agency*—The single county children and youth social services agency.

   *Department*—The Department of Human Services of the Commonwealth.

   *Family service plan or service plan*—A written document describing short- and long-range objectives for the provision of care and services to a child and his familiy, prepared by the placing agency or individual.

   *Foster family*—The living unit, including the foster family residence and foster parent, approved by a foster family care agency to provide foster family care to children.

   *Foster family care*—Residential care and supervision provided to a child placed with a foster family.

   *Foster family care agency* or *FFCA*—A public or private agency which recruits, approves, supervises and places children with foster families.

   *Foster family residence*—The primary domicile of a foster parent. The residence may be owned or rented by the foster parent; or it may be provided to the foster parent by the FFCA.

   *Foster parent*—An individual responsible for providing foster family care to children placed by an FFCA.

   *Individual Service Plan* or *ISP*—A description of the activities which implement the family service plan.

   *Licensure* or *approval*—The certification of FFCA and foster family compliance with this chapter.

   *Passive physical restraint*—The least amount of direct physical contact required to prevent immediate harm to the child or others.

   *Placement*—Twenty-four hour out-of-home care and supervision of a child.

   *Placing agency*—The agency or individual with legal authority to refer or place a child for foster family care. Included are courts, county children and youth social service agencies and parents.

**ADMINISTRATIVE REQUIREMENTS**

The governing authority shall ensure that the FFCA and foster family homes are operated in conformity with all applicable Federal, State and local statutes, ordinances and regulations, including the following:

(a) The Juvenile Act, 41 Pa. C.S. |6301-6365

(b) The Child Protective Services Law (11 P.S. |2201-2224)

(c) Mental Health Procedures Act (50 P.S. | 7101-7503)

 (d) The Act of February 13, 1970 (P.L. 19, No. 10) (35 P.S.| 10101-10103)

 (e) Mental Health and Mental Retardation Act of 1960 ( 50 P.S. | 4101-4708)

 (f) The Pennsylvania Drug and Alcohol Abuse Control Act (71 P.S. | 1690.101- . 1690.1151)

 (g) The Act of April 27, 1927 (P.L. 465, No. 299) (35 P.S. | 1221-1235)

 (h) The Public School Code of 1949 (24 P.S. |1-101-27-2702)

 (i) The Child Labor Law (43 P.S. | 41-66.1), as amended

 (j) The Equal Employment Opportunity Act of 1972 (42 U.S.C.A | 2000e, et. seq.)

 (k) The Vehicle Code, 75 Pa. C.S.

 (l) The Public Welfare Code (62 P.S. | 101-1503)

 (m) The Clean Streams Law (35 P.S. | 691.1-691.1001)

 (n) The Land and Water Conservation and Reclamation Act (32 P.S. | 5101-5121)

 (o) The Pennsylvania Sewage Facilities Act (35 P.S. | 7501.1-750.20)

 (p) The Solid Waste Management Act (35 P.S. 6018.101-6018.1003)

 (q) Safe Drinking Water Act (42 U.S.C.A. 300f et. seq.)

 (r) The Pennsylvania Human Relations Act (43 P.S. |951-963)

 (s) 16 Pa. Code Chapter 49 (relating to contract compliance)

 (t) Title VI of the Civil Rights Act of 1964 (42 U.S.C.A | 2000d-2000d-41) and

 (u) Chapter 20

**3700.12 Appeal**

The FFCA has the right to appeal the Department’s decisions related to licensure or approval under 2 Pa. C.S. | 501-508 and 701-704 (relating to Administrative agency Law) and Chapter 21.

**3700.13 Governing Authority**

1. The FFCA shall submit to the Department a complete list of the names, addresses and telephone numbers of the governing authority and the person responsible for the daily administration of the FFCA when it applies for licensure and approval.
2. The FFCA shall notify the Department, in writing and within 30 days, of any changes in administration or the governing authority, including changes of address and telephone number.

**3700.14 Reports and Records of Unusual Incidents and Child Abuse**

1. The FFCA shall immediately report any incidents of suspected child abuse to Childline under the Child Protective Services Law (11 P.S. | 2201-2224).
2. In addition to the report required in subsection (a), the FFCA shall make a written report on forms provided by the Department to the appropriate regional office within 10 calendar days of knowledge of the occurrence of the following unusual incidients:
3. Death of a child
4. a physical injury to a child which requires in-patient hospitalization and
5. a foster family home fire or other serious incident that might threaten the health or safety of a child

PERSONNEL REQUIREMENTS

**3700.21 Hiring Practices**

An FFCA shall not hire any person who has been convicted of any offense related to the abuse of children.

**PROGRAM REQUIREMENTS**

**3700.31 Number of Children Allowed In a Foster Family Home**

1. FFCCA’s shall limit the number of children livening with any foster family to six. The maximum of six children includes the foster parents own children. Exception to this requirement may be made only with prior approval obtained, in writing, from the appropriate regional office of the Department.
2. Foster parents providing care to more than six children on the effective date of this chapter must be notified by the FFCA that the number of children for whom they may provide care will be reduced by attrition until the allowable maximum of six is reached.

**3700.32 Case Records**

1. A private FFCA shall maintain in its case records on the children receiving foster family care:

1) the child’s name, sex and date of birth 2) the name and address of the placing agency 3) date on which child was accepted into care 4) the location of child’s placement, including the name and address of the foster . family home 5) the parents’ names, addresses and dates of birth 6) a copy of information provided to parents as a specified in 3700.37 (relating to . information to parents) 7) service plan information as provided by placing agency and the individual Program . Description (IPD) completed by a private FFCA 8) results of case reviews 9) correspondence relating to the child 10) a brief chronological reporting of case activity 11) medical and dental records 12) an emergency telephone number where parent or guardian can be reached

1. A county children and youth social service agency providing foster family care shall maintain its case records as required in Chapter 3130.42 (relating to requirements for family case records).

**3700.33 Confidentiality of Case Records**

1. All information that can be used to identify the child or his/her parents by name or address and all information contained in the case record is confidential. A staff person may not disclose or make use of any information concerning the course of the performance of his/her duties.
2. Information contained in case records must be released upon request to:

1) parent or guardian

2) the child, if 14 years of age or older

3) children’s and parents’ attorneys

4) the Court and Court staff

5) the placing agency, and

6) authorized agents of the Department

1. The FFCA may release information contained in case records to other providers of service; the information must be necessary to carry out their responsibilities.
2. Information may not be released to any other person or agency other than those specified in subsections (b) and (c) without authorization of the Court.
3. Information from a child’s case record may be made available only when the information being released does not contain material which violates the right of privacy of another individual and/or is protected or made confidential by law. This shall not be construed to protect the right to privacy of an employee of the FFCA.
4. Non-identifying information from a child’s case record may be use for teaching, research or similar purposes. The record must be purged of all identifying data prior to release by the FFCA.

**3700.34 Family Service Plan**

 A private FFCA shall implement a family service plan and placement amendment as developed by the placing agency.

**3700.35 Individual Program Description (IPD)**

1. The private FFCA shall develop an IPD within 30 calendar days of accepting a child for care.
2. The IPD must identify the daily care and treatment which will be provided to the child and must include the following:

1) a schedule of the child’s visits with parents 2) a description of educational, vocational and treatment activities in which the child . will participate and 3) identification of person(s) responsible for and their role(s) in implementing the IPD

1. The IPD must be signed by the administrator of the private FFCA or his/her designee.
2. An opportunity to participate in the development of and sign the IPD must be provided to the following:

1) the parent or guardian 2) the child, if 14 years of age or older 3) the placing agency

 e) Each child’s IPD must be reviewed at least every six months by the FFCA to determine . progress in achieving the family service plan. Reviews must include observations and . assessment made by foster parents. The IPD must, if appropriate, be modified or revised . as a result of the review. Results of the review must be recorded in the case records. The . placing agency and the child’s parent(s) or guardian(s) must be given the opportunity to . participate in the review.

1. The private FFCA shall provide a copy of the initial and each amended IPD to those persons listed in (d) of this section.

**3700.37 Information To Parents**

1. The FFCA shall give the child’s parents:
2. An emergency telephone number that provides 24-hour access to the FFCA
3. A written statement that parents and child will have the opportunity to visit each other at least once every two weeks at a time and place convenient to all parties and in a location which will permit natural interaction. The opportunity for visits may be provided less frequently only when the visits would conflict with a service plan provided by the placing agency or individual.

**3700.38 Orientation and Information For Foster Families**

1. The FFCA shall provide an orientation for new foster parents before placing a child which must include information about:
2. FFCA philosophy
3. FFCA practices
4. roles of the foster family and
5. applicable laws and regulations
6. The FFCA shall give the foster parents an emergency telephone number which provides 24-hour access to the FFCA.
7. Foster parents must be provided any information from the child’s case record which is necessary to protect his/her health and safety.
8. Foster parents must be provided any information from either the family service plan or the IPD which enables them to function in cooperation with the FFCA staff.

**3700.39 Report of Parental Absence**

 If a child has not visited with his family for over one year, and the child is not under the supervision of a public agency, the private FFCA shall report, by telephone or in writing, to the county children and youth service agency that the child has not see the family for one year.

**HEALTH CARE REQUIREMENTS**

**3700.51 Medical and Dental Care**

1. The FFCA shall ensure that each child receives a medical appraisal by a licensed physician within 60 days of the child’s admission to foster family care unless the child has had an appraisal within the last 12 months and the results of the appraisal are available. The appraisal must include:
2. an assessment of the child’s general health,
3. an examination of the child for physical injury or disease and
4. vision and hearing tests
5. The FFCA shall arrange for immediate medical attention when a medical problem is recognized at the time of referral.
6. The FFCA shall ensure that each child receives a dental appraisal by a licensed dentist within 60 calendar days of admission, unless the child has had an appraisal within the previous six months.
7. The FFCA shall ensure that each child receives other appraisals and follow-up treatment as ordered by the physician or dentist as a result of the initial appraisal.
8. After the initial appraisals, the FFCA shall ensure that each child has a medical appraisal every two years; a dental appraisal every six months and a vision and hearing test every year.
9. The FFCA shall confirm the immunization record of the child within 60 calendar days of placement. An appropriate immunization schedule must be established for the child based on his/her immunization status.
10. The FFCA shall ensure that children receive all necessary medical care when they are ill.
11. The FFCA shall encourage parents to participate in the program of regular and appropriate medical and dental care for their child.

**3700.52 Consent to Treatment**

1. When the health or life of a child in foster family care is threatened because the parents refuse to consent to medical treatment, the FFCA shall take appropriate legal action to protect the child.
2. A child may consent to medical treatment for conditions relating to drug and alcohol abuse, abortion, pregnancy and venereal disease, and under any other circumstances specified by the Minors Consent to Medical, Dental and Health Services Act, Act of February 13, 1970, P.L. 19, No. 10 (35 P.S. | 10101-10105).
3. Under provisions of the Mental Health Procedures Act, Act of July 9, 1976, P.L. 817 No. 143 (50 P.S. | 7101-7503) a child, 14 years or older, must consent to mental health treatment, including, administration of psychotropic drugs. If a child refuses to give consent, the FFCA shall request a court order authorizing the treatment. The authorization of the parents or guardian is not acceptable consent.

**REQUIREMENTS FOR FFCA APPROVAL OF FOSTER FAMILY HOMES**

**3700.61 Transfer of Approval Authority**

The Department delegates its authority under Article IX of the Public Welfare Code (62 P.S. | 901 et. seg.) to inspect and approve foster family homes to an approved FFCA.

**3700.62 Foster Parent Requirements**

1. Foster parents must be at least 21 years of age,
2. Foster parents must pass an initial medical appraisal by a licensed physician prior to being approved. The appraisal must establish that the foster parents are physically able to care for children and are free from communicable disease. Further medical examinations may be required by the agency if the agency has reason to believe that additional medical appraisal is appropriate.
3. No foster parent or any member of the foster parent household may have been convicted of any offense related to abuse of children.

**3700.63 Foster Parent Discipline Policy**

 Foster Parents must adhere to the following policy when disciplining foster children:

1. Passive physical restraint is the only allowable method of restraining a child.
2. All abusive discipline practices are prohibited including:
3. use of corporal, degrading or vindictive punishment,
4. punishment for bedwetting or actions related to toilet training
5. delegation of discipline to other children
6. denial of meals, clothing or shelter
7. denial of elements of the service plans,
8. denial of communication with or visits by the child’s family, and
9. assignment of physically strenuous exercise or work solely as punishment

**3700.64 Assessment of Foster Parent Capability**

1. The FFCA shall consider the following when assessing the ability of applicants for approval as foster parents:
2. The ability to provide care, nurturing and supervision to children,
3. a demonstrated stable mental and emotional adjustment. If there is any question regarding the mental or emotional stability of any family member which might have a negative effect on a foster child, the FFCA shall require a psychological evaluation of the person before approving the foster family home.
4. supportive community ties with family, friends and family,
5. In making a determination in relation to (a) (1). (2) and (3) of this section, the FFCA shall consider:
6. existing family relationships, attitudes, and expectations regarding the applicant’s own children and parent/child relationships, especially as they might affect a foster child,
7. ability of the applicant to accept a foster child’s relationship with his/her own parents,
8. the applicant’s ability to care for children with special needs, such as physical handicaps and emotional disturbances,
9. number and characteristics of foster children best suited to the foster family, and
10. ability of the applicant to work in partnership with an FFCA.

**3700.65 Foster Parent Training**

For continued approval as foster parents, each foster parent must successfully complete a minimum of six hours of FFCA approved training annually. Training must be made available by the FFCA and must include:

1. emergency medical first aid and
2. approaches to child discipline, including the use of passive physical restraint.

**3700.66 Foster Family Home**

1. The FFCA shall ensure that the foster home has:
2. at least one flush toilet, one wash basin and one bath or shower with hot and cold running water,
3. an operable heating system and
4. an operable telephone.
5. Sleeping areas must meet the following criteria:
6. No unsuitable area such as a hall, stairway, unfinished attic or basement, garage, bathroom, eating area, closet, shed or detached building may be used as a sleeping area for children.
7. Children or the opposite sex who are five years of age or older may not share the same sleeping area.

**3700.67 Safety Requirements**

1. Containers of poisonous, caustic, toxic, flammable or other dangerous material kept in the home must be distinctly marked or labeled as hazardous and stored in locked areas inaccessible to children.
2. Emergency telephone numbers, including those for fire, police, poison control and ambulance, must be conspicuously posted adjacent to all telephones.
3. Fireplaces, fireplace inserts and wood and coal burning stoves, if allowed by local ordinance, must be securely screened or equipped with protective guards. Any free standing space heaters must be used in accordance with the manufacturers’ specifications for operation.
4. An operable smoke detector must be placed on each level of the residence. The detector must be maintained in operable condition at all times.
5. A portable fire extinguisher, suitable for Class B fires, must be available in the kitchen and other cooking areas. The extinguisher must be tested yearly or have a gauge to ensure adequate pressure.
6. Protective safety caps must be placed in all electrical outlets accessible to children younger than five years of age.
7. Exposed electrical wires are prohibited.
8. Drinking water from a non-community water source must be potable as determined by an annual inspection.
9. When transporting children weighing less than 40 pounds in a motor vehicle, foster parents shall ensure that the children are placed in an infant care seat that meets the Federal Motor Vehicle Safety Standards (49 C.F.S | 571.213).

**3700.68 Foster Family Home Approval**

1. The FFCA shall give written notice to each applicant of its decision to approve or disapprove or disapprove the foster family home.
2. Foster parent applicants whose homes have not been approved on the effective date of these regulations must meet the requirements of 300.623700.67 (relating to requirements for FFCA approval of foster family homes) before any children may be placed in their homes.
3. Foster family homes already approved by an FFCA on the effective date of these regulations must be inspected and comply with the requirements of 3700.623700.67 (relating to requirements for FFCA approval of foster family homes) at the time of their next annual re-evaluation.

**3700.69 Annual Re-Evaluation**

1. The FFCA shall visit and inspect annually, each foster family home to determine continued compliance with the requirements of 3700.62-3700.67 (relating to requirements for FFCA approval of foster family homes).
2. The FFCA shall give each foster parent a written notice regarding the results of the annual evaluation.

**3700.70 Provisional approval**

1. Foster family homes which are approved prior to the effective date of this chapter which do not comply with the requirements of 3700.62-3700.67 (relating to requirements of foster family homes) at the time of their next annual re-evaluation and foster family homes which are approved and subsequently fail to meet the requirements, may be permitted to operate up to 12 months after non-compliance is determined by the FFCA unless the health and safety of any children in the foster family home would be in jeopardy.
2. During a period of non-compliance as specified in subsection (a), the FFCA shall not place additional children in a foster family home.
3. If compliance with the requirements of 3700.62-3700.67 (relating to requirements for FFCA approval of foster family homes) is not achieved within 12 months by a home specified in subsection (a), the FFCA shall terminate approval of the foster family home.

**3700.71 Foster Family File**

The FFCA shall maintain a file for each foster family home. The file must contain a copy of the foster family home approval and the results of each annual foster family home re-evaluation.

**3700.72 Foster Parent Approval Appeals**

 Foster parents have the right to appeal the FFCA’s decision related to approval pursuant to the Administrative Procedures Act 2 PA. C.S. |501-508 and 701-704 relating to Administrative Agency Law and Chapter 21.

**3700.73 Foster Parent Appeal of Child Relocation**

1. Foster parents may appeal the relocation of a child from a foster family home except under the following conditions:
2. the child has been with the foster family less than 6 months, or
3. the removal is initiated by the Court, or
4. the removal is to return the child to his/her parents, or
5. the removal is to place the child for adoption, or
6. an investigation of a report of alleged child abuse indicating the need for protective custody and/or removal to protect the child from further serious physical or mental injury, sexual abuse or serious physical neglect as defined in Chapter 3490 (relating to Child Protective Services- Child Abuse).
7. The FFCA shall inform foster parents, in writing that they may appeal the relocation of a child in accordance with subsection (a) at least 15 days prior to the relocation of the child.
8. Foster parents who wish to appeal the relocation of a child must submit to the FFCA a written appeal to be postmarked no later than 15 days after the date of the notice of their right to appeal the child’s relocation.
9. Upon receipt of the foster parent’s appeal, the FFCA shall date stamp the appeal and submit it to the Department’s Office of Hearing and Appeals, P.O. Box 2675 Harrisburg, PA 17120, within three working days.
10. If a foster parent submits an appeal in accordance with subsection (a), the child must remain in the foster family home pending a decision on the appeal.
11. All parties to an appeal of a child’s relocation may be represented by an attorney or other representative.