City of New York Administration for Children's Services

Policy# 2011/02

Subject: Flexibility in Sleeping Arrangement Requirements for Sibling Foster Care

Placements

APPROVED BY: John B. Mattingly

DATE: March 21, 2011

Page: 1 of 6 (Including 2 attachments)

1 Appendix

IMPLEMENTATION RESPONSIBILITY Children's Services Division of Child Protection, Family Permanency Services (Office of Shared Response) and all Foster Care Services Provider

Agency Staff

PURPOSE:

Siblings who are placed together in foster care and reside in the same foster home tend to have a more stable experience and are able to rely on each other for support and a sense of security. Because of such clear and compelling benefits to children, separation of siblings or half-siblings may occur only if the placement together is determined to be contrary to the health, safety or welfare of one or more children.¹

This document describes revised regulatory amendments² that help facilitate and encourage placement of siblings together by allowing greater flexibility in the sleeping arrangements for the sibling groups placed in foster boarding homes. This document also clarifies Children's Services case practice guidelines and planning expectations specific to sibling placement in care.

SCOPE:

This policy applies to Foster Care Services provider agency staff, Children's Services Division of Child Protection, Family Permanency Services (Office of Shared Response) and all Foster Care Provider agency staff and is effective immediately.

This policy replaces all references to sleeping arrangements for children in care as outlined in Procedure No. 105/Buelletin No. 01-1, Certification/Approval of Foster Boarding Home (2/8/01)

For additional information or questions contact Melody Grissom, Deputy Director, Policy and Procedures Unit, at melody.grissom@dfa.state.ny.us or 212-341-2848.

¹ 18 NYCRR 431.10 and 92-ADM-24 Foster Care Adoption: Requirements for Siblings Placements, Visitation and Communication.

² 18 NYCRR 443.3(a)(4) and (5).

POLICY:

Revised Policy Guidelines

Effective July 21, 2010, the New York State Office of Family and Children Services (OCFS) advised all local services districts and foster care provider agencies of amendments to the Social Services regulations ³ allowing greater flexibility for the placement of sibling groups cared for in foster boarding homes.⁴

As a result of the amended regulations, DCP and foster care agency staff are now permitted to consider the following sleeping arrangements provided they are consistent with the health, safety and welfare of each child and such sleeping arrangements are necessary to place siblings or half-siblings together in the same foster home:

- Same bedrooms for siblings or half-siblings of the opposite sex over seven years of age
- More than three persons occupying any bedroom where foster children sleep if children are siblings or half-siblings

Foster care agency staff is now permitted to consider these alternative sleeping arrangements for certified and approved homes. In doing so, they also are expected to follow documentation requirements and practice expectations as outlined on pages 5-6 of Appendix A (10-OCFS-INF-07).

This new flexibility will likely result in more siblings or half-siblings being placed together in one foster home⁵. Furthermore, these amendments also avoid the need for visiting arrangements between siblings placed apart and make parental visits easier.

Exceptions to Non-Safety Related Requirements for Approved Homes Only

As described above, associated with this new flexibility in sleeping arrangements, ACS will no longer require exceptions to policy requests for

- the placement of siblings or half-siblings of the opposite sex in approved homes who are over seven years of age in the same bedroom or
- the placement of more than three persons occupying any bedroom where foster children sleep if children are siblings or half-siblings.

However, while we have flexibility for sibling groups we do not for non-siblings. Therefore, if arrangements for non-sibling groups need to be explored for an approved foster home, foster care agency staff must a request an exception to policy from the Family Permanency Services Office of Shared Response as outlined in Attachment II of this policy.

³ 18 NYCRR 443.3(a)(4) and (5).

⁴ Per 10-OCFS-INF-07, these amendments do not require provider agencies use of the added flexibility for the placement of siblings or half-siblings but provide this flexibility in regards to the foster care sleeping arrangements when completing assessing the placement of sibling groups.

The regulation requiring each child to have a separate bed or crib still applies. 18 NYCRR 443.3(a) (8).

The following are the standards for which exceptions may be granted:

- 1. Separate bedrooms for non-siblings of the opposite sex over seven years of age;
- 2. Not more than three persons who are non-siblings occupying a bedroom;
- 3. No child over the age of three sleeping in the same room as an adult of the opposite sex.

Exceptions to the above are available for approved homes only and must be 1.) needed to place the child; 2.) in the best interest of the child and 3.) consistent with the health safety, and welfare of the child.

Sleeping Arrangements

For Children Under the Age of Three

Children's Services and its provider agencies may not allow a child under the age of three to be placed in any emergency certified or approved home⁷ that is not furnished with a crib. Prior to the placement of all children under the age of three, a Child Protective Specialist (CPS) must establish that the child's prospective placement is furnished with a crib for his/her own personal use. If the home will need one or more cribs in order to meet this standard, the CPS must contact the Children's Services Day Program⁸ to secure the crib prior to or upon the placement of the child. (Please be advised that the Day Program can facilitate the delivery of cribs to the placement once provided with a CONNECTIONS (CNNX) Case ID number. It is not necessary to wait for a Welfare Management System (WMS) case to open prior to facilitating the delivery of the crib.)

Children Ages Three Years and Older

Children's Services and its provider agencies will continue to allow the placement of children ages three years and older in prospective emergency certified or approved homes if no separate bed is available at the time of placement. Children's Services and its provider agencies must assess the sleeping arrangements at the time of placement and determine that such arrangements are consistent with the health, safety, and welfare of the child(ren). However, CPS and/or provider agency staff must make every effort to provide a bed in the shortest time possible as a full home study will not be approved unless the child that is placed is furnished with his/her own separate bed.

⁶ Including those placements made by CPS where an exception must be granted

⁷ See Attachment I for definition of emergency certified and emergency approved homes.

⁸ Refer to ACS Memorandum, Emergency Requests for Cribs, dated July 16, 2009 (J. Flory).

Assessment and Documentation

The health, safety, and welfare of children is an essential consideration of any placement decision. Prior to any foster home placement, including any emergency placement, DCP and provider agency staff must assess the likely effect on the other foster children already in the home. While increased flexibility as described herein can benefit sibling placements, it is important for staff to carefully consider each individual child and foster family's circumstance, and only make placements that are safe and supportive of the child's well-being and best interests. OCFS provides (Appendix A) specific casework guidance to be considered when assessing appropriate sleeping arrangements in conjunction with sibling placements.⁹

As with all activities related to siblings, DCP and provider agency staff are required to document reasons for separating sibling in the Family Assessment and Service Plan (FASP) in the "Continuity of Environment" tab which is designed to capture information about the worker's efforts to maintain an environment as similar as possible to that of the child placed in care where it is safe and appropriate to do so.

⁹ See pages 5 and 6 of attached OCFS-INF-07.

ATTACHMENT I: Definitions Approved Home

• An approved home is one in which temporary or long-term care is provided to a child whose care and custody or guardianship and custody have been transferred to an authorized agency pursuant to the provision of section 383 or 384-a of the Social Services Law, or who has been placed with a social services official pursuant to Article 3, 7, or 10 of the Family Court Act and who is cared for 24 hours a day in a family home with a foster parent who is a relative within the second or third degree to the parent(s) or stepparent(s) of the child and who is duly approved by an authorized agency. 18 NYCRR 443.1(f).

Approved Emergency Relative Foster Home

• An approved emergency relative foster home is one in which foster care is provided to a child placed with an authorized agency who is cared for 24 hours a day in a family home with a foster parent who is a relative within the second or third degree to the parent(s) or stepparent(s) of the child and which is duly approved by an authorized agency. 18 NYCRR 443.1(g). Provisions for emergency approved homes allow for children to be placed on an emergency basis for up to 90 days. 18 NYCRR 443.7.

Certified Home

• A certified home is a home in which temporary or long-term care is provided to a child whose care and custody or guardianship and custody have been transferred to an authorized agency pursuant to the provision of section 383 or 384-a of the Social Services Law, or who has been placed with a social services official pursuant to Article 3, 7, or 10 of the Family Court Act and who is cared for 24 hours a day in a family home with a foster parent who has been duly certified by an authorized agency. See generally, 18 NYCRR 443.1 (b) and (e).

Certified Emergency Foster Home

• A certified emergency foster home is one in which foster care is provided to a child placed with an authorized agency who is cared for 24 hours a day in a family home with a foster parent who is either a relative other than one who is within the second or third degree to the parent(s) or stepparent(s) of the child or is non-relative with a significant prior relationship with the child's family and which is duly certified by an authorized agency. 18 NYCRR 443.1(h). Provisions for emergency certified homes allow for children to be placed on an emergency basis for up to 90 days. 18 NYCRR 443.7.

ATTACHMENT II:

Requests for Non-Safety Homefinding Exceptions Submissions

Request package should be forwarded to:

Administration for Children's Services

Office of Shared Response

150 William Street 7th Floor Room 702

New York, N.Y. 10038

Attention: Steven Bieber, Shared Response Deputy Director

Submissions to Shared Response Deputy Director Steven Bieber from the provider agency Homefinding Director and include the following information:

Cover letter from the provider agency Homefinding Director addressed to Shared Response Deputy Director Steven Bieber. The cover letter must provide the following information:

- ➤ Identifying information [case name, case number etc.]
- ➤ Household composition [including birth family and all foster children]
- > Reason for request
- ➤ Initial or reauthorization request
- ➤ Current location of identified child (ren)
- ➤ Other resources explored
- > Any special needs of children in household
- ➤ Did the identified resource home have any prior requests for nonsafety exceptions [if yes, specify nature of exception]

Copy of available homestudy [full or emergency, including floor plan]

Court Order [if applicable]

Please contact the following Exception to Policy staff in the Office of Shared Response for any required assistance:

Steven Bieber Steven. Bieber@dfa.state.ny.us 212-676-7480

Kathleen Owens Kathleen. Owens@dfa.state.ny.us 212-676-7397

Vicki Taylor Vicki. Taylor@dfa.state.ny.us 212-676-6738



David A. Paterson Governor

NEW YORK STATE OFFICE OF CHILDREN & FAMILY SERVICES 52 WASHINGTON STREET RENSSELAER, NY 12144

Gladys Carrión, Esq. Commissioner

Informational Letter

Transmittal:	10-OCFS-INF-07					
To:	Commissioners of Social Services					
	Executive Directors of Voluntary Authorized Agencies					
Issuing Division/Office:	Strategic Planning and Policy Development					
Date:	July 21, 2010					
Subject:	Flexibility in Sleeping Arrangement Requirements for Sibling Foster Care Placements					
Suggested Distribution:	Directors of Services Foster Care Supervisors Homefinding Supervisors					
Contact Person(s):	Any questions concerning this release should be directed to the appropriate Regional Office, Division of Child Welfare and Community Services:					
	Buffalo Regional Office- Mary Miller (716) 847-3145 Mary.Miller@ocfs.state.ny.us Rochester Regional Office (acting)- Karen Buck (585) 238-8549					
	Karen Buck@ocfs.state.ny.us					
	Syracuse Regional Office- Jack Klump (315) 423-1200					
	Jack.Klump@ocfs.state.ny.us					
	Albany Regional Office- Kerri Barber (518) 486-7078					
	Kerri.Barber@ocfs.state.ny.us					
	Spring Valley Regional Office- Patricia Sheehy (845) 708-2498 Patricia.Sheehy@ocfs.state.ny.us					
	New York City Regional Office- Patricia Beresford (212) 383-1788 Patricia Beresford @ocfs.state.ny.us					
	Native American Services- Kim Thomas (716) 847-3123 Kim. Thomas@ocfs.state.ny.us					
b .	tam. i nomas, cors. state.ny. us					
Attachments:	Yes					
Attachment Avail	able Online: Yes					

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
07-OCFS-INF-04 92- ADM-24		18 NYCRR 431.10 and 443.3	FCA 1027-a SSL 358-a(11) SSL 384-a (1-a)(b)	amender e erre entre amende ha te time en	A STATE OF THE PROPERTY OF THE

I. Purpose

The purpose of this Informational Letter (INF) is to advise local departments of social services (LDSS) and voluntary authorized agencies of newly promulgated amendments to 18 NYCRR 443.3 regarding certification and approval of foster family boarding homes. The amendments to 18 NYCRR 443.3(a)(4) and (5) became effective on July 21, 2010. The regulatory amendments allow greater flexibility for the placement of sibling groups cared for in foster boarding homes.

The regulatory amendments provide an alternative to the following general rules regarding sleeping arrangements:

- Not more than three persons can occupy any bedroom where children at board sleep; and
- Separate bedrooms are required for children of the opposite sex over seven years of age.

In both circumstances the alternative sleeping arrangements must be consistent with the health, safety and welfare of each of the children and be necessary to keep the siblings or half-siblings placed together. This INF will provide guidelines to LDSSs and voluntary authorized agencies regarding this increased flexibility of the sleeping arrangement requirements.

II. Background

The Office of Children and Family Services (OCFS) recognizes it is important for siblings or half-siblings to remain in placement together. Section 1027-a of the Family Court Act (FCA) and sections 358-a(11) and 384-a(1-a)(b) of Social Services Law (SSL) state that placement of siblings or half-siblings together must be sought unless such placement is contrary to the best interests of the children. OCFS requirements and policy, as promulgated by 18 NYCRR 431.10 and 92-ADM-24 Foster Care, Adoption: Requirements for Sibling Placement, Visitation, and Communication address the need to place

siblings or half-sibling together unless placement together would be detrimental to the best interests of the siblings. The regulation and policy also state that siblings or half-siblings may only be separated if the placement together is determined to be contrary to the health, safety or welfare of one or more of the children.

In 2005, the Office of the New York State Comptroller conducted audits both upstate and at the New York City Administration for Children's Services (ACS) on *Sibling Placement in Foster Care* (Report 2005-S-70 and Report 2005-S-10). The findings of these audits determined that local social services districts needed to do more to either place siblings together or to document why such placements were not feasible.

In June of 2007, OCFS released an INF (07-OCFS-INF-04) titled *Keeping Siblings Connected: A White Paper on Siblings in Foster Care and Adoptive Placements in New York State*, which emphasized the importance of the sibling bond to children's development and emotional well-being. Many mental health and child care experts have stated that the sibling bond is extremely important for the mental health and well-being of all children, and maybe even more so for children in foster care who have usually suffered a significant amount of loss. Research has shown that siblings in foster care who are placed together tend to have fewer emotional and behavioral issues than those placed apart. They are also less likely to experience a disruption in placement.

In addition, the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L.110-351), which went into effect October 7, 2008, amended Title IV-E of the Social Security Act to require states to make reasonable efforts to place siblings in the same foster care, kinship guardianship, or adoptive placement, unless doing so would be contrary to the safety or well-being of any of the siblings. OCFS, already committed to keeping siblings together, found this new law reinforced New York's longstanding commitment to this issue and caused OCFS to re-examine if there were additional steps that could be taken to assist LDSSs and voluntary authorized agencies in keeping siblings together.

Prior to the adoption of the regulatory amendment discussed in this release, foster families were required to have separate bedrooms for children of the opposite sex over seven years of age without any differentiation between siblings or half-siblings and non-siblings. Therefore, if a foster family had only one bedroom available, they would not be able to accommodate two or more siblings or half-siblings if they are not of the same sex and are over the age of seven. The regulatory amendment to 18 NYCRR 443.3(a)(4) adds an alternative to the requirement for separate bedrooms for opposite sex children over age seven when the children are siblings or half-siblings, as long as the sleeping arrangement is consistent with the health, safety and welfare of each of the children and is necessary to keep the siblings or half-siblings placed together in the same foster home.

Also, prior to the amendment addressed in this release, foster families were required to have not more than three persons occupying any bedroom where foster children sleep. This requirement did not take into consideration if the children are siblings or half-siblings and the room is sufficiently large enough to accommodate a larger number of children. If the foster family only had one bedroom available, they could not be used as a resource for a sibling or half-sibling group of four or more children, even if the bedroom available was large enough to accommodate four or more children. Likewise, if the sibling group was even larger than four, and more than one bedroom was available, there was still a prohibition on placing more than three children in one bedroom. The regulatory amendment to 18 NYCRR 443.3(a)(5) adds an alternative to the number of children allowed per bedroom when the children are siblings or half-siblings, provided the occupancy is consistent with the health, safety and welfare of each of the children and is necessary to keep the siblings or half-siblings together in the same foster home.

OCFS has received requests from several LDSSs requesting added flexibility in meeting bedroom capacity and sleeping arrangements requirements so that siblings or half-siblings could be placed together.

These regulatory amendments to 18 NYCRR 443.3(a)(4) & (5) allow LDSSs and voluntary authorized agencies to consider otherwise willing and appropriate foster homes that may have limited bedroom space as potential resources for children that are siblings or half-siblings. These amendments will likely result in more siblings and half-siblings being placed together in one foster home. Furthermore, these amendments also avoid having to implement visiting arrangements between siblings placed apart and make parental visits easier.

III. Program Implications

According to 18 NYCRR 431.10, foster children who are siblings or half-siblings must not be unnecessarily separated. OCFS Administrative Directive 92 ADM-24 Foster Care, Adoption: Requirements for Sibling Placement, Visitation, and Communication, that reflects the standards set forth in 18 NYCRR 430.10 requires LDSSs and voluntary authorized agencies to place siblings together in foster care and adoption unless such placement is determined to be detrimental to the health, safety or welfare of one or more of the children. The directive also requires that if siblings are to be placed separately, an assessment justifying the separation must be made in conjunction with the appropriate professional staff, and findings in support of the separation must be recorded. With the amendment to 18 NYCRR 443.3(a)(4) and 443.3(a)(5), OCFS has added more flexibility in foster family boarding home sleeping arrangements in support of siblings or half-siblings being placed together. However, it is important to note that these amendments do not require any LDSS or voluntary authorized agency to use the added

flexibility for the placement of siblings or half-siblings; though they still need to meet the requirements under section 1027-a of the FCA or sections 358-a(11) and 384-a(1-a)(b) of SSL and 18 NYCRR 431.10 as described in 92 ADM-24 and assess the potential sibling placement as it relates to the health, safety, and welfare of one or more of the children. The difference with this amendment is that there will be more flexibility in regards to the foster care sleeping arrangements when completing this assessment.

While this increased flexibility can benefit sibling placements, it is important for LDSS and voluntary authorized agency staff to carefully consider each individual child and foster family's circumstance, and only make placements that are safe and in support of the child's well-being and best interests. The health, safety and welfare of children is an essential part of any placement decision, and it is expected that LDSSs and voluntary authorized agencies have procedures in place to assess these factors and make placements that are in the best interests of the children under their care. As a reminder, prior to any foster home placement, including any emergency placement, the agency must assess the likely effect on other foster children already in the home. In addition, consistent with good practice, the likely effect on the foster parent's own children should be considered, as does the behaviors of caregivers and other adults and children who may have access to the child.

With that in mind, this INF provides some guidance regarding good casework around assessing appropriate sleeping arrangements in conjunction with sibling placements.

Guidelines:

The amendment to 18 NYCRR 443.3(a)(4) allows for siblings or half-siblings over seven yeas of age to share a bedroom if the sleeping arrangements are consistent with the health, safety and welfare of each of the children and such sleeping arrangements are necessary to place siblings or half-siblings together in the same foster home. Before making a placement with alternative sleeping arrangements, the caseworker needs to make a thorough assessment, where necessary in consultation with other professionals, of the sibling relationship and rule out any such placements that would not be in one or more of the sibling's best interests. Some considerations are:

- the age of the children
- the degree of age difference between the children
- the developmental levels and needs of both children
- the privacy needs of the children and plans to meet these needs
- the children's history prior to placement, including sleeping arrangements at home; any resultant issues tied to that arrangement, or any other factors that would contraindicate sharing a room; children's unremarkable history of room sharing

 the children's foster care placement history, including sleeping arrangements while in foster care; any resultant issues tied to that arrangement, or any other factors in their placement history that would contraindicate sharing a room; children's unremarkable history of room sharing while in foster care

- any history or suspicion of sexual abuse or sexual exploitation
- if there is a power and control dynamic between the children
- the supervision plan within the home
- that the children have separate beds, and accommodations for their clothing and other belongings
- previous separations

The amendment to 18 NYCRR 443.3(a)(5) allows for more than three persons to occupy a bedroom where children sleep when the children are siblings or half-siblings, provided the occupancy is consistent with the health, safety and welfare of each of the children and is necessary to keep them together in the same foster home. When considering making such a placement, the caseworker should make an assessment of the space available in the bedroom and whether or not it would meet the needs of the children. Some considerations are:

- if appropriate beds will fit in the room for all children sleeping there
- if additional other bedroom furnishings will fit in the room for all children sleeping there
- if there are sufficient accommodations for the children's clothing and other belongings
- the sleeping patterns of the children and if they may be disruptive to one another
- the ability for the children to hear emergency alarms and evacuate in an emergency situation

In both these sleeping plans, if the children are old enough and mature enough they should be consulted. They may positively express a desire to share a room, and this should certainly be considered. However, if a child expresses fear or concerns about sharing a room with his or her sibling(s), the reasons should be explored with the child, and he or she should not be forced to share the bedroom with the sibling(s). The foster parents and, depending on the case circumstances, the birth parents can be consulted regarding the history with the children and what they feel would be in the children's best interests. If the children have therapists or mental health providers, consultation should also occur with them during the assessment. It is also strongly recommended that the caseworker do a walk-through of the physical space where the children will be sleeping as part of their assessment.

After the assessment of the children's best interests, safety and well-being with regard to sleeping arrangements, if it is determined that foster home placement should be made in a foster boarding home where siblings or half-

siblings will share a bedroom in accordance with the flexibility the new regulations provide, it is recommended that such decision be reviewed with a supervisor for approval. It is important for the caseworker to document this assessment and decision in the case record.

As with all activities related to siblings, agency caseworkers are required to document reasons for separating siblings in the Family Assessment and Services Plan (FASP). This may include the decision to not place a child with his or her siblings if the sleeping arrangements are not consistent with the child's health, safety or well-being. The area of the FASP that addresses this is the "Continuity of Environment" tab, which is designed to capture information about the worker's efforts to maintain an environment as similar as possible to that of the child placed in care where it is safe and appropriate to do so. Under this section, one of the questions workers are asked is if the siblings are placed in the same home, and, if not, they need to explain why they are separated in the narrative field provided.

In addition, it is essential that caseworkers conduct and document safety assessments, at placement and on an ongoing basis, and that any safety related factors as well as protective factors in that home are documented in each periodic FASP in the FASP section entitled "Safety in Foster Care,". If safety-related issues are identified, workers, also need to document the actions the worker or agency took to intervene and preserve the child's safety in that placement or to move a child if circumstances require such action.

/s/ Nancy Martinez

Issued By:

Name: Nancy Martinez

Title: Director

Division/Office: Strategic Planning and Policy Development

Attachment A

Regulatory Amendment to 18 NYCRR 443.3

Paragraph (4) of subdivision (a) of section 443.3 is amended to read as follows:

(4) Separate bedrooms are required for children of the opposite sex over seven years of age, unless the children are siblings or half siblings sharing the same bedroom and the alternative sleeping arrangement is consistent with the health, safety, and welfare of each of the siblings or half-siblings and is necessary to keep the siblings or half siblings placed together in the same foster home.

Paragraph (5) of subdivision (a) of section 443.3 is amended to read as follows:

(5) Not more than three persons may occupy any bedroom where children at board sleep, unless the children are siblings or half siblings and the occupancy is consistent with the health, safety, and welfare of each of the siblings or half-siblings and is necessary to keep the siblings or half siblings placed together in the same foster home.