

**DSS ADMINISTRATIVE LETTER
FAMILY SUPPORT AND CHILD WELFARE SERVICES
FSCWS-04-07**

TO: County Directors of Social Services

**ATTENTION: Children's Services Program Managers and Supervisors
Children's Services Social Workers**

DATE: March 22, 2007

**SUBJECT: NEW FEDERAL LEGISLATION AND
IMPLEMENTATION DATES**

EFFECTIVE DATE: IMMEDIATELY

The purpose of this Administrative Letter is to provide guidance to counties to implement state policy that results from new federal legislation and to provide effective dates for implementing new policy. The new federal legislation includes the Safe and Timely Interstate Placement of Foster Children Act of 2006 (P.L. 109-239), Adam Walsh Child Protection and Safety Act of 2006 (P.L. 109-248), Child and Family Services Improvement Act of 2006 (P.L. 109-288). Information on the Safe and Timely Interstate Placement of Foster Children Act was previously communicated to counties by [DCDL FSCWS-55-06](#). Additional information on these issues can be found in the federal guidance to states in Program Instructions [ACYF-CB-PI-07-02](#).

Summary of New Policy Provisions: North Carolina policy is in bold, followed by the federal guidance.

Interstate Placement Considerations:

Counties must ensure that interstate placements are considered in any judicial hearing or review concerning a child and when developing and reviewing case plans.

NC policy continues to require monthly face to face contact with any child in DSS custody and the foster parent. The majority of these visits should be in the foster

home (in a six month period of time, four of the required visits should be in the foster home). The supervising agency will need to document that these required visits have taken place. If the needs of the child require more or less frequent contact, that must be documented clearly in the record. Since federal policy for children placed in out of state foster care requires visits at least every 6 months, counties should request a visitation schedule for children placed out of state that meets state requirements or document why more or less frequent contact is required.

P.L. 109-239 amended several provisions in section 471(a) and section 475(5) of the Act to ensure interstate placements are considered in the areas pertaining to reasonable efforts, case planning and case review

requirements. The provisions require States to:

- Consider in-State and out-of-State options when making reasonable efforts to place the child in accordance with the permanency plan and to finalize the permanency plan (section 471(a)(15)(C));
- Consider in-State and out-of-State permanent placement options at permanency hearings. If a child is in an out-of-State placement at the time of the hearing, the permanency hearing must determine whether the out-of-state foster care placement continues to be appropriate and in the child's best interests (section 471(a)(15)(E)(i) and section 475(5)(C)); and
- Visit at least every 6 months (previously every 12 months) children placed in out of State foster care. The required visits may be performed by either a caseworker from the State that has placement and care responsibility over the child or a caseworker from the State where the child is placed. Under the new legislation, caseworkers under contract with either State may also perform these visits (section 475(5)(A)(ii)). A report on the visit by the caseworker that details the child's circumstances and extent to which the out-of-State placement meets the child's best interest or special needs must be provided to the State agency of the state in which the child's parents reside.

Background Checks Required by Section 471(a)(20) of the Act.

Criminal Background Checks

Because NC previously opted out of the federal criminal background check requirements and used our own procedures, immediate implementation is not required. Legislation will be required prior to implementation. Counties will be notified when this requirement is to be implemented. Until that time, counties are to continue to operate under previous policy regarding criminal background checks.

Registry Checks

The requirements regarding registry checks were effective October 1, 2006; however, communication of this policy has been delayed to allow consultation with the state child welfare attorneys and to consult with other states around procedures for obtaining checks of their registries. Policy requires that a check of the registry be completed for every prospective foster or adoptive parent and any other adult living in the home. The Division of Social Services has determined that in North Carolina, the Responsible Individuals List (RIL) will be used for this purpose. The lack of “due process” with the Central Registry prevents its use for this purpose. For foster home applicants, counties should continue to send requests for checks of the RIL to the Licensing Authority in Black Mountain. For adoptive home applicants, counties should make their own check of the Responsible Individuals List. This is a change in policy as a result of our understanding that counties prefer to access the Responsible Individuals List themselves for the purpose of obtaining registry checks for adoptive applicants.

In addition, counties must request a registry check of each State that maintains a registry in which the prospective foster or adoptive parent and any other adult living in home have resided in the preceding five years. For foster parent applicants a copy of any required documentation for registry checks from the other state(s) must be sent with the Foster Parent Application package to the Licensing Authority. There are two websites that will assist with obtaining information from other states related to child abuse and neglect. The first website is maintained by The National Resource Center for Family-Centered Practice and Permanency Planning located at Hunter College School of Social Work and directly relates to the Adam Walsh legislation. It can be found at http://www.hunter.cuny.edu/socwork/nrcfcpp/downloads/policy-issues/State_Child_Abuse_Registries.pdf.

Some states have not provided information to Hunter College and the second website provides a listing of state liaison officers for child abuse and neglect and can be found at

http://www.childwelfare.gov/pubs/reslist/rl_dsp.cfm?typeID=20&rate_chno=19-00010.

P.L. 109-248 amended section 471(a)(20) pertaining to the criminal record and child abuse registry checks for prospective foster and adoptive parents. The new statutory provisions apply to a prospective foster or adoptive parent who is newly licensed or approved after the State’s authorized date for implementation of the new background check provisions. The fingerprint based check and child abuse and neglect registry check are not required for foster and adoptive licenses or approvals that exist before the effective date of these provisions; however, these checks are not prohibited by the statute. Once the prospective foster or adoptive parent is licensed or approved, subsequent criminal background checks or child abuse and neglect checks are not

required as long as the home remains continuously licensed or approved. Under amended section 471(a)(20):

- States must check their child abuse and neglect registry, if they maintain one, and request a check of each State that maintains a registry in which the prospective foster or adoptive parent and any other adult living in the prospective parent's home have resided in the preceding five years. These checks must be made prior to the State finally licensing or approving the foster or adoptive family regardless of whether Title IV-E foster care maintenance or adoption assistance payments are to be made on behalf of the child (new section 471(a)(20)(C)(i)). Title IV-E foster care maintenance or adoption assistance payments may not be claimed for a child placed in a foster or adoptive home where the child abuse and neglect registry check is not conducted within the State, or requested of another State, as required (new section 471(a)(20)(C)(ii));
- States must comply with child abuse and neglect registry check requests received from other States (new section 471(a)(20)(C)(ii)); and
- States must have safeguards in place to: 1) prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the State; and 2) prohibit the State from sharing the information obtained from the registry for a check required by section 471(a)(20)(C) for any purpose other than to conduct background checks for foster or adoptive placements.

Foster and Adoptive Home Study Requirements.

In order to comply with these provisions, the Interstate Office at the Division is reviewing internal policies to make every effort to send referrals and home studies in the timeframes indicated. Each county is encouraged to review its internal procedure to address these changes. Incentive payments received by North Carolina will be given to the counties that were able to meet the timeframes. No money has been received at this time. This information was previously communicated to counties by [DCDL FSCWS-55-06](#). The requirements were effective October 1, 2006.

P.L. 109-239 added two new State plan requirements at sections 471(a)(25) and (26) of the Act.

- Under section 471(a)(25), States are required to have in effect procedures for the orderly and timely interstate placement of children. Procedures that are implemented consistent with the interstate compact and meet the timely home study requirements at section 471(a)(26) will satisfy this provision.
- Under section 471(a)(26), States are required to complete, report, and return the results of a home study within 60 days after the State receives from another State a request to conduct a study of a home environment to evaluate the safety

and suitability of placing a child in the foster or adoptive home. The home study generally is conducted in accordance with the requirements that are applicable to the State in which the home is located. The report to the requesting State must address the extent to which the proposed placement will meet the specific needs of the child, including the child's safety, permanency and well-being. Further, States that receive the request are permitted to contract with another public agency or a private agency to conduct the home study.

States are permitted an exception to the 60-day requirement if the reporting State's failure to complete the home study within 60 calendar days is due to circumstances beyond the State's control (e.g., delays in receipt of Federal agency criminal records checks or the failure by any entity to provide completed medical forms requested by the State at least 45 days before the end of the 60 day period). The reporting State must document the circumstances involved in the delay and certify that completing the home study is in the best interests of the child. The exception to the 60-day requirement gives the reporting State 15 additional days (i.e., 75 calendar days) to complete and report on the home study to the requesting State. However, the 15-day extension is permissible only for a home study begun on or after October 1, 2006, but before September 30, 2008, regardless of the reason for a State's failure to timely complete a home study (section 471(a)(26)(A)(ii)).

The parts of the home study involving education and training of prospective foster and adoptive parents do not have to be completed within the same 60- (or 75-) day timeframe (section 471(a)(26)(A)(iii)).

The State that requests the home study must accept the ensuing report as meeting any requirements imposed by the State unless, within 14 calendar days of receiving the report from the other State, a private agency under contract with the other State or an Indian Tribe, the State determines based on grounds specific to the report that reliance on the report will be contrary to the child's welfare (section 471(a)(26)(B)).

Case Plans.

Counties shall include the most recent health and education records for the child in the case plan. Case plans shall include documentation of child-specific recruitment efforts made by the county to facilitate in-state and interstate placements. These case plan requirements were effective October 1, 2006. This provision will include all children in the foster care system for whom recruitment efforts are necessary to achieve permanence. This information was previously communicated to counties by [DCDL FSCWS-55-06](#).

P.L. 109-239 modified the existing definition of "case plan" in section 475(1) of the Act to:

- Require case plan inclusion of the most recent information available regarding the health and education records of the child (rather than the previous requirement to include such information to the extent available and accessible) (section 475(1)(C)) ; and
- Require case plan documentation of child-specific recruitment efforts made by the State to facilitate an orderly and timely in-State and interstate permanency placement (section 475(1)(E)).

Case Review System.

Counties shall ensure that in any hearing or review the child shall be consulted in an age appropriate manner about any permanency plans for the child. In consultation with our child welfare attorneys, we believe that North Carolina is already in compliance with this requirement, because our courts are already required to hear and receive information from children in any court hearing. In addition, the child shall be provided with his/her health and education records at the time the child exits care at age eighteen. The case review requirements were effective October 1, 2006. The supervising agency will need to document that these records have been given to the child at the times indicated. This information was previously communicated to counties by [DCDL FSCWS-55-06](#).

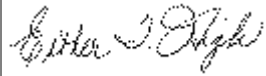
Note: Case Review requirements about a foster parents right to be heard in any foster care proceeding requires state legislation prior to implementation. Counties will be notified when this requirement is to be implemented. Until full implementation, foster parents should continue to be given the opportunity to be heard in all juvenile proceedings that involve a child in their care.

P.L. 109-239 and P.L. 109-288 modified the definition for the “case review system” in section 475(5) of the Act to require States to:

- Establish procedural safeguards for permanency hearings to ensure that the court or administrative body that conducts the hearings consults with the child, in an age-appropriate manner, about the permanency plans developed for the child. The procedural safeguards must be applied to any permanency hearings pertaining to the child, including those hearings that review plans to transition the youth from foster care to independent living (section 475(5)(C));
- Provide a free copy of the child’s health and education record to the child at the time the child exits from foster care at the age of majority under State law (section 475(5)(D)); and

If you have any questions about the information included in this Administrative Letter, please contact Thomas Smith of the Foster Care and Adoption Policy Team at (919) 733-2580 or at thomas.smith@ncmail.net.

Sincerely,



Esther T. High, Acting Chief

Family Support and Child Welfare Services Section

cc:	Sherry Bradsher
	Jo Ann Lamm
	Sarah Barham
	Family Support and Child Welfare Team Leaders
	Children's Programs Representatives
	Work First Program Representatives
	Local Business Liaisons