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*Agency of Human Services*

April 7, 2023

Dear Members of the Legislative Committee on Administrative Rules:

In response to feedback received from Legislative Counsel, the Department for Children and Families (Department) proposes the following modifications to the final proposed rule titled *Licensing Regulations for Foster Homes in Vermont*:

- Replace “regulation” with “rule” throughout the entire rule
- Sec. 020 - delete language quoted from 33 V.S.A. § 151 regarding the registration of family child care homes
- Sec. 020(a) - replace “that Department” with “the Department
- Sec. 020(b) - replace “he has” with “they have”
- Sec. 020(2) - replace “he or she is” with “they are”
- Sec. 045 - replace “he” with “they”
- Sec. 326 - replace “himself/herself” with “themselves”
- Sec. 417 - replace “his or her” with “their”
- Sec. 434 - update the ages and weights to align with the State’s current child restraint system law (23 V.S.A. § 1258)

In addition to these modifications, the Department also wishes to correct a typographical error in the numbering of rules 324.1-324.8. These rule sections should be numbered 325.1-325.8.

Attached to this letter, please find updated versions of the annotated and clean texts of the final proposed rule reflecting the changes. Please let me know if you have any questions. We look forward to discussing the final proposed rule at the upcoming April 13, 2023 meeting of LCAR.

Thank you,

Heidi Moreau  
Policy Advisor  
Department for Children and Families

## LICENSING ~~REGULATION~~ RULES FOR ~~FAMILY~~ FOSTER ~~CARE~~ HOMES IN VERMONT

### Section 1.- Purpose ~~Of~~ Regulation Rules.

010 Under the Authority of 33 ~~VSA-3501~~ V.S.A. § 4905, the Department ~~of Social for Children~~ and ~~Rehabilitation Services~~ Families ("Department") is responsible for licensing foster homes.

These regulation rules have been established to assure the care and safety of children who have to live in homes other than their own. A license is issued if the foster home and prospective foster parent(s) meet these regulation rules.

If the ~~d~~Department finds the applicant(s) or licensee(s) unwilling or unable to meet these regulation rules, the license will be denied or revoked.

Regulation Rules necessary to assure a child's well-being cover the following:

1. The safety and adequacy of the home for the care of children;
2. The personal characteristics and social relationships of the foster parent(s) and other members of the household;
3. The commitment to foster care, and the ability and willingness of the foster family to work cooperatively in support of the child's case plan; and
4. The ability of the foster family to provide positive, constructive experiences for all children in their care.

### Section 2. Statutory Authority.

020 Vermont law regulating the licensing of child care facilities is set forth in Title 33 of the Vermont Statutes Annotated as follows:

Foster Care and Placement Licensing (33 ~~VSA, 3501~~ V.S.A. § 4905)

- a. A person, other than an employee of a department within the agency Agency of ~~human services~~ Human Services, shall not place any child in foster care for more than 15 consecutive days unless the person has a license from the Department for Children and Families ("dDepartment") to do so or is an employee of a child-placing agency licensed by ~~such the d~~Department.
- b. A person shall not receive, board, or keep any child in foster care for more than 15 consecutive days unless ~~they have~~ a license from the dDepartment to do so. This subsection shall not apply to foster homes approved by a department within the agency Agency of ~~human services~~ Human Services or by a licensed child-placing agency, nor shall it apply to those facilities where educational or vocational training is the primary service and foster care is a supportive service only.
- c. This section shall not restrict the right of a court, parent, guardian, or relative to place a child, nor the right of a person not in the business of providing foster or child care to receive, board, and keep a child when a valuable consideration is not demanded or received for the child's care and maintenance.

Administrative Provisions (33 ~~VSA-306~~ V.S.A. § 151)

This ~~subsection~~subchapter shall apply to all licenses, registrations, and applications for licenses, ~~which and registrations, that~~ the ~~commissioner~~Commissioner or the ~~d~~Department may issue or grant, unless otherwise specifically provided.

1. The ~~commissioner~~Commissioner shall ~~issue regulations~~ adopt rules governing ~~application~~applications for, and issuance, revocation, term and renewal of licenses and registration. In the ~~regulation rules, the~~ Commissioner may prescribe standards and conditions to be met, records to be kept, and reports to be filed. Licenses and registration shall be for a term of one year from issuance unless otherwise prescribed by ~~regulation~~ rule.
2. Premises covered by a license or registration may be visited and inspected by the ~~d~~Department at reasonable hours. A person who accepts a license or registration shall permit visits and inspections, and examinations of the records ~~that they are~~ they are required to keep.
3. A license or registration may be revoked for cause after hearing and may be suspended in situations that immediately imperil the health, safety, or well-being of persons in the care of the licensee or registrant.
4. Before a license is granted, the ~~d~~Department shall visit and inspect the premises for which the license is requested, and make further inquiry and investigation as the ~~commissioner~~Commissioner may direct.

### Section 3. Procedures.

#### Issuance, Reissuance, and Conditions

- 030 An original license shall be valid for one year unless otherwise prescribed by the ~~e~~Commissioner, except when the license is revoked or otherwise invalidated.
- 031 Renewal of a license shall be on a yearly basis unless otherwise prescribed by the ~~e~~Commissioner. When the home is evaluated for re-licensure, the state licensing authority will review compliance with these ~~regulation~~rules and will evaluate how well the needs of children in the care of the foster parent(s) have been met.
- 032 A license is valid only for the person(s) named on the license and for the premises for which the license was issued.
- 033 The ~~d~~Department may place conditions on a license, including ~~the~~a limitation to provide care only for a specific child.
- 034 The state licensing authority may require any person in the household or any person who provides care and supervision to foster children on a regular basis, whether or not that person is an applicant or licensee, to submit references and to provide such other information as the state licensing authority may deem necessary.

#### Variations

- 035 The state licensing authority may grant a variance from a specific ~~regulation~~rule upon its determination that the applicant or licensee will otherwise meet the goal of the ~~regulation~~rule. A variance may contain provisions ~~or~~ limitations ~~for the license. Under no circumstances will the state licensing authority grant a variance from rules 200, 201, or 315.~~

036 A variance is valid for the duration of the license, unless revoked or limited by the state licensing authority, and can be renewed.

#### Denial, Revocation, and Suspension

037 A license may be denied or revoked if the applicant or licensee fails to meet any licensing ~~regulation~~rules.

038 A license may be denied or revoked if the applicant, licensee or other member of the household:

038.1 Has been charged with or convicted of a criminal offense; ~~or~~

038.2 Has current, unresolved problems with alcohol or other chemicals; or

038.3 Has abused or neglected a child.

039 A license may be suspended if a situation exists in the foster home, which immediately imperils the health, safety, or well-being of persons in the care of the licensee.

040 A license may be denied, revoked, or limited if an unusually stressful situation exists in the foster home, which affects the appropriate care of ~~the~~ children. Such situations include, but are not limited to divorce, separation, death, unemployment, serious illness or injury, or the entry of a new member into the household.

041 When a license is denied, suspended, or revoked, a written notification specifying reasons for denial or revocation shall be forwarded to the applicant(s) or licensee(s).

#### Appeal Rights

042 When the ~~d~~Department proposes revocation of a foster home license, the licensee will be offered an opportunity for a hearing with the ~~e~~Commissioner or the ~~e~~Commissioner's designee prior to the effective date of the revocation.

043 A licensee or applicant for a license who is aggrieved by a decision of the licensing unit will be granted a fair hearing before the Human Services Board if requested within 30 days of the ~~d~~Department's issuance of the decision.

#### Foster Home Records

044 The ~~d~~Department shall keep records on each foster home applicant and licensee. Records shall include applications, reference letters, compliance checklists, licensing reports, and notes regarding communication with or about the applicant(s) or licensee(s). These records are the property of the ~~d~~Department and shall only be disclosed as set forth below.

045 The ~~d~~Department shall, upon request, make available to the subject applicant(s) or licensee(s) all information contained in the licensing record except information received from third ~~persons~~parties, such as reference letters and information ~~which is~~ made confidential by law. The ~~d~~Department shall, upon receiving a written release from the subject applicant(s) or licensee(s), make available to designated third persons all information contained in ~~that~~the applicant's or licensee's licensing record to which ~~he~~they would have access.

Terms of Licensure

- 046 The total allowable number of children living in or regularly cared for in a foster home will be determined by evaluation of the ~~family's~~family's ability to provide appropriate care and supervision and by the amount of living space in the home.
- 047 The number of foster children for whom a foster ~~home~~parent is licensed shall not exceed four.
- 048 The number of foster children for whom a foster home is initially licensed shall not exceed two for the term of the first license.
- 049 A foster family shall not provide care for more than four children under six years of age at any one time, including children residing in the home and children cared for on a part-time basis.
- 050 There shall be no more than two children under the age of 24 months living in or regularly cared for in a foster home.
- 051 The total number of children residing in a foster home shall not exceed six.
- 052 A foster parent shall not provide childcare (see Definitions).

**Section 10.** ~~Application~~ And ~~and~~ and Evaluation ~~For~~ for Licensure.

- 101 The individual or couple applying for licensure shall submit a written application on the form prescribed by the state licensing authority.
- 102 Married couples living together must make a joint application.
- 103 ~~Applicants~~ All applicants and licensees shall:
- 103.1 Provide complete and truthful information on the licensing application and in the licensing process.
- 103.2 Cooperate fully with the licensor(s) in determining if all licensing ~~regulation~~ rules have been and continue to be met.
- 103.3 Cooperate fully with any licensing investigation.
- 104 A new application may be required if:
- 104.1 Application for a license was withdrawn and applicants are resubmitting an application;
- 104.2 The ~~d~~Department denied, revoked, or refused to renew the home's license and those denied, revoked, or refused seek to be reinstated as a foster home;
- 104.3 The home was licensed and the licensee voluntarily requested closure;
- 104.4 The license has become invalid because of a move to a different physical facility; or

104.5 Changes affecting eligibility for licensure have occurred.

**Section 20.** Characteristics ~~Of~~ Foster Parents.

~~200 Household members in a foster home must be responsible, emotionally stable, emotionally mature people of good character as exemplified by past performance and general reputation. All foster parents are prohibited from engaging in any form of discrimination against a foster child based on race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability, or political beliefs.~~

200.1 While foster parents are prohibited from discriminating against a foster child based on the statuses listed in section 200, applicants shall not be denied a license solely based on inability to care for children of a certain age or children with special needs.

201 Applicants and ~~licensees~~ foster parents shall exhibit:

201.1 Healthy patterns of social and interpersonal relationships;

201.2 Knowledge of child and adolescent development and the needs of children;

201.3 Ability to apply discipline in a constructive and educational manner;

201.4 Realistic expectations regarding the behavior of foster children;

201.5 Sound judgment;

201.6 ~~Current freedom from~~ No substance ~~ab~~ misuse, and effective resolution of any past abuse of alcohol or other substances;

201.7 Responsible care and/or planning for their children, including children who are not in the applicant's or licensee's ~~e~~ custody; care;

201.8 Stable emotional adjustment following any major changes in close interpersonal relationships or other life circumstances-;

201.9 Ability to communicate, with or without support, with the child, Department staff, and other service providers to ensure necessary care; and

201.10 Respect for the worth of all individuals regardless of race, color, national origin, ancestry, culture, religion, sex, gender identity, sexual identity, and physical or mental ability.

202 Each child-caring adult in the home shall exhibit the ability to be an appropriate model for children.

203 All members of the household shall be free from physical conditions, mental limitations, or emotional problems, which would have an adverse effect on the physical or emotional well-being of foster children.

204 Primary caregivers shall be at least 21 years of age.

205 Foster parents shall demonstrate that they have sufficient income to support the family, exclusive of foster children, without reliance on the basic foster care reimbursement.

**Section 30.** Responsibilities ~~Of~~of Foster Parents.

300 Foster parents shall participate in training determined by the child-placing agency to be necessary for the care of foster children.

Care and Supervision of Foster Children

301 Foster parents shall meet the physical, emotional, developmental and educational needs of each foster child, in accordance with the child's case plan.

302 Foster parents shall provide or arrange for supervision appropriate to each child's age and developmental level.

303 Foster parents shall have a plan for providing appropriate substitute care in their absence for employment or other purposes.

304 ~~A f~~Foster parents shall assure that any substitute caregiver is aware of and agrees to follow all ~~regulation~~rules regarding supervision and discipline.

305 ~~A f~~Foster parents shall not permit any other person providing care or supervision to their foster child to violate any provision of these licensing ~~regulation~~rules.

306 Foster parents shall take reasonable steps to safeguard foster children from hazards.

Home Environment, Community, and Family Activities

307 Foster parents shall provide constructive, positive family living experiences for foster children.

308 Material and equipment appropriate for the ages of foster children shall be available for both active and quiet play.

309 Foster parents shall arrange social contact and encourage friendship between foster children and other children in the community.

310 Foster parents shall provide opportunities for recreation and community activities.

311 Foster parents shall assure that foster children attend school in accordance with state law and the child's case plan.

312 Foster parents shall assure that household duties or chores are appropriate to the age, developmental level, and abilities of the foster child, and do not interfere with school, sleep, study or reasonable recreational time.

313 Foster parents shall not require a child to use earned money to pay for room and board unless it is approved by the child's custodian as part of the child's case plan.

314 Foster parents shall provide children with appropriate clothing.

~~315~~ 315 Foster parents shall support children in wearing hairstyles, clothing, and accessories affirming of the child's racial, cultural, tribal, religious, or gender identity.

#### Confidentiality and Privacy

~~315-316~~ 316 Foster parents shall treat all personal information regarding foster children and their families as confidential.

~~316~~ 317 Foster parents shall not authorize the publication of the name or photograph of a foster child in a manner that identifies the child as a foster child without written permission of the child's custodian.

~~317~~ 318 Foster parents shall permit foster children to communicate by mail and ~~by~~ telephone in accordance with the child's case plan.

~~318~~ 319 Foster parents shall arrange for conditions of reasonable privacy for consultation with attorneys and caseworkers.

~~319~~ 320 Foster parents shall respect a child's privacy.

#### Relationships with the Child's Family

~~320-321~~ 321 Foster parents shall support efforts to establish and maintain ties between foster children and their families, as specified in the case plan.

~~321~~ 322 Foster parents shall not deny a foster child planned visits with a parent or guardian as specified by court action or the case plan.

~~322~~ 323 Foster parents shall cooperate with the child-placing agency in case planning and in carrying out the case plan.

#### Discipline

~~323~~ 324 Discipline shall be constructive and educational in nature. Correction must be fair, reasonable, and consistent, and whenever possible must be logically connected to the behavior in need of change.

~~324~~ 325 A ~~f~~Foster parents shall not subject a foster child to any cruel, degrading, or unnecessary discipline techniques, including but not limited to:

3245.1 Spanking, slapping, hitting, shaking, or otherwise engaging in aggressive physical contact with a child;

3245.2 Requiring or forcing the child to take an uncomfortable position, such as squatting or bending, or requiring or forcing the child to repeat physical movements when used solely as a means of punishment;

3245.3 Isolation in a closet or a locked room;

3245.4 Deprivation of necessary food, water, rest, or opportunity for toileting or bathing;

3245.5 Denial of visiting or communications privileges with family, caseworker, or attorney as a means of punishment;



3245.6 Extensive withholding of positive emotional responses or stimulation;

3245.7 Chemical, mechanical, or physical restraint except as authorized in [RegulationRule](#) 326.

3245.8 Any act defined as abuse or neglect by Vermont Statutes Annotated, Title 33, Chapter 49.

~~325 Foster parents shall not engage in any practices that have the effect of degrading or humiliating a foster child, or that would undermine the foster child's sense of self-worth.~~

326 A ~~f~~Foster parents may not physically restrain a foster child except when the child's behavior threatens to result in harm to ~~himself/herself or themselves or~~ others or in significant damage to property, or when such restraint is in accordance with an established treatment plan.

326.1 The amount of force used in restraint and the duration of the restraint must be the least amount consistent with reducing the risk to a level manageable by less restrictive means.

326.2 Foster parents shall report to the child's custodian all incidents of physical restraint on a foster child.

326.3 Foster parents shall keep a written account of any physical restraint used on a foster child.

327 Foster parents shall not exclude a foster child from entrance to the residence unless it is part of an approved case plan.

328 Foster parents shall not punish a child for bedwetting or actions in regard to toilet training.

#### Health Care

329 Foster parents shall cooperate with the custodian in securing routine and emergency medical and mental health care for foster children, including regular medical and dental examinations, and immunizations.

330 Foster parents shall observe children for signs of illness, disease, or changes in behavior and shall respond to and care for a child suffering from illness, accident, or injury.

331 First aid supplies shall be available to treat minor injuries.

332 Foster parents shall not withhold prescribed medications or treatment from a foster child or change prescribed dosages without medical authorization.

333 Foster parents shall not provide to a foster child any prescription medication not prescribed for that child.

334 Foster parents shall not provide alcoholic beverages or any illegal drug to a foster child.

#### Food and Nutrition

335 Foster parents shall assure that a foster child is provided at least three meals or their equivalent a day, available at regular hours.

336 Foster parents shall provide a well-balanced diet adequate to meet the nutritional needs of each foster child.

337 A foster family shall include foster children at family meals and shall offer them the same choice of food as the rest of the family, with due consideration for individual nutritional needs and preferences.

#### Religion and Cultural Heritage

338 Foster parents shall respect the religious beliefs and cultural heritage of foster children, and shall not interfere with the reasonable practice of a foster child's religious beliefs.

339 Foster parents shall not coerce a foster child into participating in religious activities or ethnic events against the child's will.

#### Reporting and Notification

340 ~~A foster parent~~s shall report to the local ~~Social Services~~Department District Office any circumstances indicating that a foster child ~~has been subjected to abuse~~is an abused or neglected child as defined by 33 ~~VSA~~ or has been a victim of assault or other physical or sexual abuse. V.S.A. § 4912.

341 Foster parents shall notify the child's custodian:

341.1 As soon as it has been determined that a foster child has run away or is missing;

341.2 Before making plans for the care of the child by other persons for any period in excess of ~~forty-eight~~ 48 hours, or for any planned absence of the child from the foster home in excess of ~~forty-eight~~ 48 hours;

341.3 When any member of the household contracts a disease, which may present a significant threat to the health of the foster child;

341.4 When a foster child experiences any serious illness or injury.

342 The licensee shall notify the state licensing authority when any of the following occur or are anticipated:

342.1 The foster family moves to a different premises;

342.2 There is a change, other than foster children, in household membership;

342.3 There are changes in the physical facility, which affect compliance with these ~~regulation~~ rules;

342.4 The family plans to use sleeping arrangements other than those previously approved;

342.5 There is a serious physical or mental illness or injury of any member of the household, which may affect the ability of the foster family to provide care for the children;

342.6 The family intends to provide care for children or dependent adults through more than one program or agency.

### Section 40. Physical Environment.

#### General Safety and Maintenance

- 401 ~~The f~~Foster parents shall maintain the house, grounds and outside equipment and shall assure that they are reasonably free from any undue hazard or risk.
- 402 \_\_\_The foster home shall be heated and ventilated adequately.
- 403 ~~"~~ Foster parents shall ensure that children in the custody of the Department shall not be exposed to second hand smoke in the foster parent's home or vehicle.~~"~~.
- 404 The foster home shall have telephone service.
- 405 The kitchen in the foster home shall have a sink with running water and all other necessary equipment for safe food preparation and storage.
- 406 A foster home shall have a minimum of one indoor bathroom with a flush toilet, a washbasin with running water, and one bath or shower with hot and cold water.
- 407 Any firearm shall be kept in a locked storage space with ammunition stored separately in a locked space, or shall be incapacitated by means of the locking of essential parts of the firearm or the removal and separate locking of such parts.
- 408 Foster parents shall take precautions to keep medicines and hazardous materials out of the reach of children.
- 409 Emergency telephone numbers, including fire, police, physician, poison control, health agency and ambulance, shall be conspicuously posted adjacent to the telephone.
- 410 Foster parents shall restrict the access of potentially dangerous animals to foster children.
- 411 Foster parents shall maintain all power-driven equipment used by foster children in safe condition, with all safety features in place and operational.
- 411.1 Foster parents shall provide appropriate orientation and supervision when a foster child uses such equipment.

#### Fire Safety

- 412 The home shall be free of dangers which constitute an obvious fire hazard, such as faulty electrical cords, overloaded electrical sockets or an accumulation of papers, paint or other flammable material stored in the home.
- 413 Foster parents shall have an evacuation plan to be used in the event of fire and shall assure that, consistent with their ability to comprehend, foster children understand the plan. The plan shall include:
- 413.1 A description of two or more means of exit from each floor level used for sleeping by foster children;
- 413.2 The designation of a central meeting place outside the home; and;

413.3 A means of evacuating children who need assistance.

414 Foster parents shall provide an adequate number of smoke detectors, which are properly installed, located and functioning. There shall be at least one such detector in the basement and one on each floor that is used as living space.

415 Foster parents shall place a functional portable, ABC-type fire extinguisher in the cooking area of the home.

416 There shall be at least two accessible exits from each floor level used for sleeping by foster children.

#### Bedrooms

417 Each foster child shall be provided with ~~his or her~~their-own bed or crib.

418 No foster child over two years of age shall sleep in the same room with an adult.

419 No child over five years of age shall sleep in the same room with a child of the opposite sex when either child is a foster child.

420 There shall be no more than four children designated to sleep in a bedroom when any of them is a foster child.

421 No living room, dining area or other area of the home, which is not ordinarily a sleeping room, may be used for such purpose by any member of the household on a regular basis.

422 A bedroom used by a foster child shall be of sufficient size to allow for a bed and to afford space for dressing, quiet activities and storage of the possessions of the occupants of the room.

423 All bedrooms and bathrooms used by foster children shall be equipped with doors which can be closed and which can be readily opened from the inside.

424 A bedroom used by a foster child shall have at least one window, which can be opened to the outside.

425 Bedroom areas shall be accessible through an entry other than a bathroom.

426 At least one bathroom shall be accessible by means of an entry other than through a bedroom.

427 A bedroom, which is accessible only through another bedroom, may be used only when the occupants of both bedrooms could share a bedroom under the provisions of these ~~regulation~~rules.

428 Each foster child shall have a clean mattress and shall be provided with clean bedding appropriate to the season.

429 All beds designated for use by foster children shall have headroom sufficient to allow the child to sit up comfortably in bed.

430 Foster parents shall provide each foster child with a dresser or other adequate storage space and a space for hanging clothing near the bedroom occupied by the child.

#### Transportation

- 431 Foster parents shall have access to regular transportation for foster children.
- 432 Foster parents shall maintain vehicles used to transport foster children in a safe condition and shall assure that such vehicles are properly registered, inspected and insured.
- 433 Foster children shall be transported only by a person possessing a valid driver's license.
- 434 Foster parents shall assure that ~~any foster child weighing less than forty pounds or any foster child less than five years of age is properly secured in a federally approved infant or child passenger restraining system~~ when being transported in the foster parents' vehicle; ~~Foster parents shall assure that all other foster children are properly secured in seatbelts when being transported in the foster parents' vehicle.~~

434.1 Any foster child weighing less than 20 pounds or any foster child under the age of one is restrained in a rear-facing position, properly secured in a federally approved child passenger restraining system, which shall not be installed in front of an active air bag;

434.2 Any foster child weighing more than 20 pounds, and who is one year of age or older and under the age of eight years is restrained in a child passenger restraining system; and

434.3 Any foster child eight through 17 years of age is restrained in a safety belt system or a child passenger restraining system.

## Section 50. Definitions.

### Applicant

A person who has made formal, written application for a foster home license.

### Caregiver

A person who provides care and supervision to a foster child.

### Case Plan

The plan for provision of services to a foster child, developed by the agency responsible for providing such services.

### Childcare

The provision of care and supervision on a regular or continuous basis in the provider's home for period of less than twenty-four hours a day, whether for compensation or not, to one or more children under sixteen years of age who are not related to the provider and who do not live in the provider's home.

### Commissioner

The Commissioner of the Department ~~of Social~~for Children and ~~Rehabilitation Services~~Families (Department).

### Custodian

The person or agency (such as the Department ~~of Social~~for Children and ~~Rehabilitation Services~~Families) having legal custody of a child.

### Denial

The formal decision of the state licensing authority not to grant a foster home license to an applicant.

**Dependent Adult**

An adult who is in need of    and receives    personal care and/or supervision.

**Foster Care**

The provision of 24-hour per day care in a family home to a child other than the biological or adopted child of the provider.

**Foster Child**

A child receiving foster care.

**Foster Home**

The residence and physical premises in which foster care is provided and the household members residing there.

**Foster Parent**

A person licensed to provide foster care; a person required by state law to be so licensed.

**Household Member**

Any person, whether a family member or not, who lives and sleeps regularly in a foster home.

**License**

Authorization from the state licensing authority for designated individuals to provide foster care at a designated location; the certificate granting such authorization.

**Licensed Foster Care**

See statutory definition on page 1.

**Licensee**

A person in whose name a license is issued.

**Physical Restraint**

Direct physical contact required on the part of a foster parent to prevent a child from hurting ~~self~~themselves, others, or property.

**Primary Caregiver**

An adult who provides care and supervision to a foster child in a foster home on a regular basis.

**Revocation**

The formal invalidation, for cause, of a license by the state licensing authority.

**State Licensing Authority**

The state agency with the statutory authority to license foster homes.

**Suspension**

The immediate temporary invalidation of a license by the state licensing authority in a situation which immediately imperils the health, safety or well-being of a foster child.

**Variance**

Written authorization by the state licensing authority for an applicant or licensee to meet the intent of a ~~regulation~~rule in a way other than that prescribed by the ~~regulation~~rule.33 V.S.A. §§ 306, 3501

## LICENSING RULES FOR FOSTER HOMES IN VERMONT

### Section 1. Purpose of Rules.

010 Under the Authority of 33 V.S.A. § 4905, the Department for Children and Families (“Department”) is responsible for licensing foster homes.

These rules have been established to assure the care and safety of children who have to live in homes other than their own. A license is issued if the foster home and prospective foster parent(s) meet these rules.

If the Department finds the applicant(s) or licensee(s) unwilling or unable to meet these rules, the license will be denied or revoked.

Rules necessary to assure a child’s well-being cover the following:

1. The safety and adequacy of the home for the care of children;
2. The personal characteristics and social relationships of the foster parent(s) and other members of the household;
3. The commitment to foster care, and the ability and willingness of the foster family to work cooperatively in support of the child’s case plan; and
4. The ability of the foster family to provide positive, constructive experiences for all children in their care.

### Section 2. Statutory Authority.

020 Vermont law regulating the licensing of child care facilities is set forth in Title 33 of the Vermont Statutes Annotated as follows:

Foster Care and Placement Licensing (33 V.S.A. § 4905)

- a. A person, other than an employee of a department within the Agency of Human Services, shall not place any child in foster care for more than 15 consecutive days unless the person has a license from the Department for Children and Families (“Department”) to do so or is an employee of a child-placing agency licensed by the Department.
- b. A person shall not receive, board, or keep any child in foster care for more than 15 consecutive days unless they have a license from the Department to do so. This subsection shall not apply to foster homes approved by a department within the Agency of Human Services or by a licensed child-placing agency, nor shall it apply to those facilities where educational or vocational training is the primary service and foster care is a supportive service only.
- c. This section shall not restrict the right of a court, parent, guardian, or relative to place a child, nor the right of a person not in the business of providing foster or child care to receive, board, and keep a child when a valuable consideration is not demanded or received for the child’s care and maintenance.

Administrative Provisions (33 V.S.A. § 151)

This subchapter shall apply to all licenses, registrations, and applications for licenses and registrations, that the Commissioner or the Department may issue or grant unless otherwise specifically provided.



1. The Commissioner shall adopt rules governing applications for and issuance, revocation, term and renewal of licenses and registration. In the rules, the Commissioner may prescribe standards and conditions to be met, records to be kept, and reports to be filed. Licenses and registration shall be for a term of one year from issuance unless otherwise prescribed by rule.
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#### Issuance, Reissuance, and Conditions

- 030 An original license shall be valid for one year unless otherwise prescribed by the Commissioner, except when the license is revoked or otherwise invalidated.
- 031 Renewal of a license shall be on a yearly basis unless otherwise prescribed by the Commissioner. When the home is evaluated for re-licensure, the state licensing authority will review compliance with these rules and will evaluate how well the needs of children in the care of the foster parent(s) have been met.
- 032 A license is valid only for the person(s) named on the license and for the premises for which the license was issued.
- 033 The Department may place conditions on a license, including a limitation to provide care only for a specific child.
- 034 The state licensing authority may require any person in the household or any person who provides care and supervision to foster children on a regular basis, whether or not that person is an applicant or licensee, to submit references and to provide such other information as the state licensing authority may deem necessary.

#### Variations

- 035 The state licensing authority may grant a variance from a specific rule upon its determination that the applicant or licensee will otherwise meet the goal of the rule. A variance may contain provisions for the license. Under no circumstances will the state licensing authority grant a variance from rules 200, 201, or 315.
- 036 A variance is valid for the duration of the license, unless revoked or limited by the state licensing authority, and can be renewed.

#### Denial, Revocation, and Suspension

- 037 A license may be denied or revoked if the applicant or licensee fails to meet any licensing rules.
- 038 A license may be denied or revoked if the applicant, licensee or other member of the household:

038.1 Has been charged with or convicted of a criminal offense; or

038.2 Has current, unresolved problems with alcohol or other chemicals; or

038.3 Has abused or neglected a child.

039 A license may be suspended if a situation exists in the foster home, which immediately imperils the health, safety, or well-being of persons in the care of the licensee.

040 A license may be denied, revoked, or limited if an unusually stressful situation exists in the foster home, which affects the appropriate care of the children. Such situations include, but are not limited to divorce, separation, death, unemployment, serious illness or injury, or the entry of a new member into the household.

041 When a license is denied, suspended, or revoked, a written notification specifying reasons for denial or revocation shall be forwarded to the applicant(s) or licensee(s).

#### Appeal Rights

042 When the Department proposes revocation of a foster home license, the licensee will be offered an opportunity for a hearing with the Commissioner or the Commissioner's designee prior to the effective date of the revocation.

043 A licensee or applicant for a license who is aggrieved by a decision of the licensing unit will be granted a fair hearing before the Human Services Board if requested within 30 days of the Department's issuance of the decision.

#### Foster Home Records

044 The Department shall keep records on each foster home applicant and licensee. Records shall include applications, reference letters, compliance checklists, licensing reports, and notes regarding communication with or about the applicant(s) or licensee(s). These records are the property of the Department and shall only be disclosed as set forth below.

045 The Department shall, upon request, make available to the subject applicant(s) or licensee(s) all information contained in the licensing record except information received from third parties, such as reference letters and information made confidential by law. The Department shall, upon receiving a written release from the subject applicant(s) or licensee(s), make available to designated third persons all information contained in the applicant's or licensee's licensing record to which they would have access.

#### Terms of Licensure

046 The total allowable number of children living in or regularly cared for in a foster home will be determined by evaluation of the family's ability to provide appropriate care and supervision and by the amount of living space in the home.

047 The number of foster children for whom a foster parent is licensed shall not exceed four.

- 048 The number of foster children for whom a foster home is initially licensed shall not exceed two for the term of the first license.
- 049 A foster family shall not provide care for more than four children under six years of age at any one time, including children residing in the home and children cared for on a part-time basis.
- 050 There shall be no more than two children under the age of 24 months living in or regularly cared for in a foster home.
- 051 The total number of children residing in a foster home shall not exceed six.
- 052 A foster parent shall not provide childcare (see Definitions).

**Section 10.** Application and Evaluation for Licensure.

- 101 The individual or couple applying for licensure shall submit a written application on the form prescribed by the state licensing authority.
- 102 Married couples living together must make a joint application.
- 103 All applicants and licensees shall:
- 103.1 Provide complete and truthful information on the licensing application and in the licensing process.
  - 103.2 Cooperate fully with the licensor(s) in determining if all licensing rules have been and continue to be met.
  - 103.3 Cooperate fully with any licensing investigation.
- 104 A new application may be required if:
- 104.1 Application for a license was withdrawn and applicants are resubmitting an application;
  - 104.2 The Department denied, revoked, or refused to renew the home's license and those denied, revoked, or refused seek to be reinstated as a foster home;
  - 104.3 The home was licensed and the licensee voluntarily requested closure;
  - 104.4 The license has become invalid because of a move to a different physical facility; or
  - 104.5 Changes affecting eligibility for licensure have occurred.

**Section 20.** Characteristics of Foster Parents.

- 200 All foster parents are prohibited from engaging in any form of discrimination against a foster child based on race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability, or political beliefs.
- 200.1 While foster parents are prohibited from discriminating against a foster child based on the statuses listed

in section 200, applicants shall not be denied a license solely based on inability to care for children of a certain age or children with special needs.

- 201 Applicants and foster parents shall exhibit:
- 201.1 Healthy patterns of social and interpersonal relationships;
  - 201.2 Knowledge of child and adolescent development and the needs of children;
  - 201.3 Ability to apply discipline in a constructive and educational manner;
  - 201.4 Realistic expectations regarding the behavior of foster children;
  - 201.5 Sound judgment;
  - 201.6 No substance misuse, and effective resolution of any past abuse of alcohol or other substances;
  - 201.7 Responsible care and/or planning for their children, including children who are not in the applicant's or licensee's care;
  - 201.8 Stable emotional adjustment following any major changes in close interpersonal relationships or other life circumstances;
  - 201.9 Ability to communicate, with or without support, with the child, Department staff, and other service providers to ensure necessary care; and
  - 201.10 Respect for the worth of all individuals regardless of race, color, national origin, ancestry, culture, religion, sex, gender identity, sexual identity, and physical or mental ability.
- 202 Each child-caring adult in the home shall exhibit the ability to be an appropriate model for children.
- 203 All members of the household shall be free from physical conditions, mental limitations, or emotional problems, which would have an adverse effect on the physical or emotional well-being of foster children.
- 204 Primary caregivers shall be at least 21 years of age.
- 205 Foster parents shall demonstrate that they have sufficient income to support the family, exclusive of foster children, without reliance on the basic foster care reimbursement.

**Section 30. Responsibilities of Foster Parents.**

- 300 Foster parents shall participate in training determined by the child placing agency to be necessary for the care of foster children.

Care and Supervision of Foster Children

- 301 Foster parents shall meet the physical, emotional, developmental and educational needs of each foster child, in accordance with the child's case plan.

- 302 Foster parents shall provide or arrange for supervision appropriate to each child's age and developmental level.
- 303 Foster parents shall have a plan for providing appropriate substitute care in their absence for employment or other purposes.
- 304 Foster parents shall assure that any substitute caregiver is aware of and agrees to follow all rules regarding supervision and discipline.
- 305 Foster parents shall not permit any other person providing care or supervision to their foster child to violate any provision of these licensing rules.
- 306 Foster parents shall take reasonable steps to safeguard foster children from hazards.

#### Home Environment, Community, and Family Activities

- 307 Foster parents shall provide constructive, positive family living experiences for foster children.
- 308 Material and equipment appropriate for the ages of foster children shall be available for both active and quiet play.
- 309 Foster parents shall arrange social contact and encourage friendship between foster children and other children in the community.
- 310 Foster parents shall provide opportunities for recreation and community activities.
- 311 Foster parents shall assure that foster children attend school in accordance with state law and the child's case plan.
- 312 Foster parents shall assure that household duties or chores are appropriate to the age, developmental level, and abilities of the foster child, and do not interfere with school, sleep, study or reasonable recreational time.
- 313 Foster parents shall not require a child to use earned money to pay for room and board unless it is approved by the child's custodian as part of the child's case plan.
- 314 Foster parents shall provide children with appropriate clothing.
- 315 Foster parents shall support children in wearing hairstyles, clothing, and accessories affirming of the child's racial, cultural, tribal, religious, or gender identity.

#### Confidentiality and Privacy

- 316 Foster parents shall treat all personal information regarding foster children and their families as confidential.
- 317 Foster parents shall not authorize the publication of the name or photograph of a foster child in a manner that identifies the child as a foster child without written permission of the child's custodian.
- 318 Foster parents shall permit foster children to communicate by mail and telephone in accordance with the child's case plan.

319 Foster parents shall arrange for conditions of reasonable privacy for consultation with attorneys and caseworkers.

320 Foster parents shall respect a child's privacy.

#### Relationships with the Child's Family

321 Foster parents shall support efforts to establish and maintain ties between foster children and their families, as specified in the case plan.

322 Foster parents shall not deny a foster child planned visits with a parent or guardian as specified by court action or the case plan.

323 Foster parents shall cooperate with the child-placing agency in case planning and in carrying out the case plan.

#### Discipline

324 Discipline shall be constructive and educational in nature. Correction must be fair, reasonable, and consistent, and whenever possible must be logically connected to the behavior in need of change.

325 Foster parents shall not subject a foster child to any cruel, degrading, or unnecessary discipline techniques, including but not limited to:

325.1 Spanking, slapping, hitting, shaking, or otherwise engaging in aggressive physical contact with a child;

325.2 Requiring or forcing the child to take an uncomfortable position, such as squatting or bending, or requiring or forcing the child to repeat physical movements when used solely as a means of punishment;

325.3 Isolation in a closet or a locked room;

325.4 Deprivation of necessary food, water, rest, or opportunity for toileting or bathing;

325.5 Denial of visiting or communications privileges with family, caseworker, or attorney as a means of punishment;

325.6 Extensive withholding of positive emotional responses or stimulation;

325.7 Chemical, mechanical, or physical restraint except as authorized in Rule 326.

325.8 Any act defined as abuse or neglect by Vermont Statutes Annotated, Title 33, Chapter 49.

326 Foster parents may not physically restrain a foster child except when the child's behavior threatens to result in harm to themselves or others or in significant damage to property, or when such restraint is in accordance with an established treatment plan.

326.1 The amount of force used in restraint and the duration of the restraint must be the least amount consistent with reducing the risk to a level manageable by less restrictive means.

326.2 Foster parents shall report to the child's custodian all incidents of physical restraint on a foster child.

326.3 Foster parents shall keep a written account of any physical restraint used on a foster child.

327 Foster parents shall not exclude a foster child from entrance to the residence unless it is part of an approved case plan.

328 Foster parents shall not punish a child for bedwetting or actions in regard to toilet training.

#### Health Care

329 Foster parents shall cooperate with the custodian in securing routine and emergency medical and mental health care for foster children, including regular medical and dental examinations, and immunizations.

330 Foster parents shall observe children for signs of illness, disease, or changes in behavior and shall respond to and care for a child suffering from illness, accident, or injury.

331 First aid supplies shall be available to treat minor injuries.

332 Foster parents shall not withhold prescribed medications or treatment from a foster child or change prescribed dosages without medical authorization.

333 Foster parents shall not provide to a foster child any prescription medication not prescribed for that child.

334 Foster parents shall not provide alcoholic beverages or any illegal drug to a foster child.

#### Food and Nutrition

335 Foster parents shall assure that a foster child is provided at least three meals or their equivalent a day, available at regular hours.

336 Foster parents shall provide a well-balanced diet adequate to meet the nutritional needs of each foster child.

337 A foster family shall include foster children at family meals and shall offer them the same choice of food as the rest of the family, with due consideration for individual nutritional needs and preferences.

#### Religion and Cultural Heritage

338 Foster parents shall respect the religious beliefs and cultural heritage of foster children, and shall not interfere with the reasonable practice of a foster child's religious beliefs.

339 Foster parents shall not coerce a foster child into participating in religious activities or ethnic events against the child's will.

#### Reporting and Notification

340 Foster parents shall report to the local Department District Office any circumstances indicating that a foster child is an abused or neglected child as defined by 33 V.S.A. § 4912.

341 Foster parents shall notify the child's custodian:

341.1 As soon as it has been determined that a foster child has run away or is missing;

341.2 Before making plans for the care of the child by other persons for any period in excess of 48 hours, or for any planned absence of the child from the foster home in excess of 48 hours;

341.3 When any member of the household contracts a disease, which may present a significant threat to the health of the foster child;

341.4 When a foster child experiences any serious illness or injury.

342 The licensee shall notify the state licensing authority when any of the following occur or are anticipated:

342.1 The foster family moves to a different premises;

342.2 There is a change, other than foster children, in household membership;

342.3 There are changes in the physical facility, which affect compliance with these rules;

342.4 The family plans to use sleeping arrangements other than those previously approved;

342.5 There is a serious physical or mental illness or injury of any member of the household, which may affect the ability of the foster family to provide care for the children;

342.6 The family intends to provide care for children or dependent adults through more than one program or agency.

#### **Section 40. Physical Environment.**

##### General Safety and Maintenance

401 Foster parents shall maintain the house, grounds and outside equipment and shall assure that they are reasonably free from any undue hazard or risk.

402 The foster home shall be heated and ventilated adequately.

403 Foster parents shall ensure that children in the custody of the Department shall not be exposed to second hand smoke in the foster parent's home or vehicle.

404 The foster home shall have telephone service.

405 The kitchen in the foster home shall have a sink with running water and all other necessary equipment for safe food preparation and storage.

406 A foster home shall have a minimum of one indoor bathroom with a flush toilet, a washbasin with running water, and one bath or shower with hot and cold water.



- 407 Any firearm shall be kept in a locked storage space with ammunition stored separately in a locked space, or shall be incapacitated by means of the locking of essential parts of the firearm or the removal and separate locking of such parts.
- 408 Foster parents shall take precautions to keep medicines and hazardous materials out of the reach of children.
- 409 Emergency telephone numbers, including fire, police, physician, poison control, health agency and ambulance, shall be conspicuously posted adjacent to the telephone.
- 410 Foster parents shall restrict the access of potentially dangerous animals to foster children.
- 411 Foster parents shall maintain all power-driven equipment used by foster children in safe condition, with all safety features in place and operational.
- 411.1 Foster parents shall provide appropriate orientation and supervision when a foster child uses such equipment.

#### Fire Safety

- 412 The home shall be free of dangers which constitute an obvious fire hazard, such as faulty electrical cords, overloaded electrical sockets or an accumulation of papers, paint or other flammable material stored in the home.
- 413 Foster parents shall have an evacuation plan to be used in the event of fire and shall assure that, consistent with their ability to comprehend, foster children understand the plan. The plan shall include:
- 413.1 A description of two or more means of exit from each floor level used for sleeping by foster children;
- 413.2 The designation of a central meeting place outside the home; and
- 413.3 A means of evacuating children who need assistance.
- 414 Foster parents shall provide an adequate number of smoke detectors, which are properly installed, located and functioning. There shall be at least one such detector in the basement and one on each floor that is used as living space.
- 415 Foster parents shall place a functional portable, ABC-type fire extinguisher in the cooking area of the home.
- 416 There shall be at least two accessible exits from each floor level used for sleeping by foster children.

#### Bedrooms

- 417 Each foster child shall be provided with their own bed or crib.
- 418 No foster child over two years of age shall sleep in the same room with an adult.

- 419 No child over five years of age shall sleep in the same room with a child of the opposite sex when either child is a foster child.
- 420 There shall be no more than four children designated to sleep in a bedroom when any of them is a foster child.
- 421 No living room, dining area or other area of the home, which is not ordinarily a sleeping room, may be used for such purpose by any member of the household on a regular basis.
- 422 A bedroom used by a foster child shall be of sufficient size to allow for a bed and to afford space for dressing, quiet activities and storage of the possessions of the occupants of the room.
- 423 All bedrooms and bathrooms used by foster children shall be equipped with doors which can be closed and which can be readily opened from the inside.
- 424 A bedroom used by a foster child shall have at least one window, which can be opened to the outside.
- 425 Bedroom areas shall be accessible through an entry other than a bathroom.
- 426 At least one bathroom shall be accessible by means of an entry other than through a bedroom.
- 427 A bedroom, which is accessible only through another bedroom, may be used only when the occupants of both bedrooms could share a bedroom under the provisions of these rules.
- 428 Each foster child shall have a clean mattress and shall be provided with clean bedding appropriate to the season.
- 429 All beds designated for use by foster children shall have headroom sufficient to allow the child to sit up comfortably in bed.
- 430 Foster parents shall provide each foster child with a dresser or other adequate storage space and a space for hanging clothing near the bedroom occupied by the child.

#### Transportation

- 431 Foster parents shall have access to regular transportation for foster children.
- 432 Foster parents shall maintain vehicles used to transport foster children in a safe condition and shall assure that such vehicles are properly registered, inspected and insured.
- 433 Foster children shall be transported only by a person possessing a valid driver's license.
- 434 Foster parents shall assure that when being transported in the foster parents' vehicle:
- 434.1 Any foster child weighing less than 20 pounds or any foster child under the age of one is restrained in a rear-facing position, properly secured in a federally approved child passenger restraining system, which shall not be installed in front of an active air bag;
- 434.2 Any foster child weighing more than 20 pounds, and who is one year of age or older and under the age of eight years is restrained in a child passenger restraining system; and

434.3 Any foster child eight through 17 years of age is restrained in a safety belt system or a child passenger restraining system.

**Section 50.** Definitions.

**Applicant**

A person who has made formal, written application for a foster home license.

**Caregiver**

A person who provides care and supervision to a foster child.

**Case Plan**

The plan for provision of services to a foster child, developed by the agency responsible for providing such services.

**Childcare**

The provision of care and supervision on a regular or continuous basis in the provider's home for period of less than twenty-four hours a day, whether for compensation or not, to one or more children under sixteen years of age who are not related to the provider and who do not live in the provider's home.

**Commissioner**

The Commissioner of the Department for Children and Families (Department).

**Custodian**

The person or agency (such as the Department for Children and Families) having legal custody of a child.

**Denial**

The formal decision of the state licensing authority not to grant a foster home license to an applicant.

**Dependent Adult**

An adult who is in need of, and receives, personal care and/or supervision.

**Foster Care**

The provision of 24-hour per day care in a family home to a child other than the biological or adopted child of the provider.

**Foster Child**

A child receiving foster care.

**Foster Home**

The residence and physical premises in which foster care is provided and the household members residing there.

**Foster Parent**

A person licensed to provide foster care; a person required by state law to be so licensed.

**Household Member**

Any person, whether a family member or not, who lives and sleeps regularly in a foster home.

**License**

Authorization from the state licensing authority for designated individuals to provide foster care at a designated location; the certificate granting such authorization.

**Licensed Foster Care**

See statutory definition on page 1.

**Licensee**

A person in whose name a license is issued.

**Physical Restraint**

Direct physical contact required on the part of a foster parent to prevent a child from hurting themselves, others, or property.

**Primary Caregiver**

An adult who provides care and supervision to a foster child in a foster home on a regular basis.

**Revocation**

The formal invalidation, for cause, of a license by the state licensing authority.

**State Licensing Authority**

The state agency with the statutory authority to license foster homes.

**Suspension**

The immediate temporary invalidation of a license by the state licensing authority in a situation which immediately imperils the health, safety or well-being of a foster child.

**Variance**

Written authorization by the state licensing authority for an applicant or licensee to meet the intent of a rule in a way other than that prescribed by the rule.