

Text of Rule

1
2 1. Subdivision (a) of section 427.2 of Title 18 of the Official Compilation of Codes,
3 Rules and Regulations of the State of New York is amended to read as follows:

4 (a) Foster care of children means all activities and functions provided relative to the care
5 of a child away from [his] their home 24 hours per day in a foster family free home or a duly
6 certified or approved foster family boarding home or a duly certified group home, agency
7 boarding home, child care institution, a supervised setting, a qualified residential treatment
8 program, programs for youth who have been or are at-risk of sex trafficking, specialized
9 programs to serve prenatal, postpartum or parenting youth, or in a health care facility or any
10 combination thereof.

11 2. Paragraph (2) of subdivision (b) of section 427.2 of Title 18 of the Official Compilation
12 of Codes, Rules and Regulations of the State of New York is amended to read as follows:

13 (2) Residential program. The child is cared for away from [his or her] their home 24
14 hours a day in a foster family free home; a duly licensed, certified, or approved foster family
15 boarding home; a duly licensed or certified group home, agency boarding home, child care
16 institution, supervised setting, a qualified residential treatment program, programs for youth
17 who have been or are at-risk of sex trafficking, specialized programs to serve prenatal,
18 postpartum or parenting youth, or in a health care facility; or any combination thereof.

19 3. Paragraph 4 of subdivision (c) of section 427.2 of Title 18 of the Official Compilation
20 of Codes, Rules and Regulations of the State of New York is amended to read as follows:

21 (4) [Minor parent/child] Parenting youth and child of parenting youth case.

22 (i) the [minor parent] parenting youth and child of the parenting youth meets the criteria
23 specified in paragraphs (1) through (3) of this subdivision;

24 (ii) the child [or children of the minor parent] of the parenting youth reside(s) with the
25 [minor parent] parenting youth in a foster family home or residential facility and such child of a
26 parenting youth or children of a parenting youth are not in the care and custody or custody and
27 guardianship of the local commissioner of social services; and

28 (iii) the costs of the care of the child of the parenting youth or children of the [minor
29 parent] parenting youth are combined with the costs of the care of the [minor parent] parenting
30 youth.

31 4. Subdivision (d) of section 427.2 of Title 18 of the Official Compilation of Codes, Rules
32 and Regulations of the State of New York is amended to read as follows:

33 (d) *Foster family boarding home* means a residence owned, leased, or otherwise under
34 the control of a single person or family who has been certified or approved by an authorized
35 agency or is used by a local probation department, the State Department of Mental Hygiene or
36 the Office of Children and Family Services to care for children, and such person or family
37 receives payment from the agency for the care of such children. Such home may care for not
38 more than six children, including all children under the age of 13 residing in the home, whether
39 or not they are received for board. However, up to two additional children may be cared for if

1 such children are siblings, or are siblings of a child living in the home, or are part of a [minor
2 parent/child] parenting youth and child of a parenting youth unit as defined in section 427.2(s) of
3 this Part, or are children freed for adoption and placed for adoption with the person(s) who have
4 been certified or approved as foster parents. Such home may exceed these limits only to
5 receive or board a child or children returning to that foster family boarding home pursuant to
6 section 443.6 of this Title.

7 5. Subdivision (h) of section 427.2 of Title 18 of the Official Compilation of Codes,
8 Rules and Regulations of the State of New York is amended to read as follows:

9 (h) Group home means a family-type home for the care and maintenance of not less
10 than seven nor more than 12 children who are at least five years of age, operated by an
11 authorized agency, in quarters or premises owned, leased, or otherwise under the control of
12 such agency; except that such minimum age shall not be applicable to siblings placed in the
13 same facility, nor to children of parenting youth whose [mother] parent is placed in the same
14 facility.

15 6. Subdivision (s) of section 427.2 of Title 18 of the Official Compilation of Codes, Rules
16 and Regulations of the State of New York is amended to read as follows:

17 (s) [Minor parent/child] Parenting youth and child of parenting youth unit means a family
18 consisting of a [foster] child in foster care or an adopted child who is a [minor] parent and the
19 child or children of such [minor parent] child in foster care or an adoptive child residing together
20 in the same foster family home, residential facility or adoptive home.

21 7. Subdivision (b) of section 428.3 of Title 18 of the Official Compilation of Codes, Rules
22 and Regulations of the State of New York is amended to add new paragraphs (3) and (4) to
23 read as follows:

24 (3) For foster care placement cases in which the child is placed in a qualified residential
25 treatment program as defined in section 441.2 of this Title, the uniform case record must also
26 include:

27 (i) Details regarding the family and permanency team, including but not limited to:

28 (a) Its composition;

29 (b) The reasonable and good faith effort to identify and include all the individuals
30 described in section 409-h of the Social Services Law and section 439.3 of this Title to
31 participate in the family and permanency team;

32 (c) All contact information for members of the family and permanency team, as well as
33 contact information for other family members and fictive kin who are not part of the family and
34 permanency team;

35 (d) Evidence that meetings of the family and permanency team, including meetings
36 relating to the assessment required under section 409-h of the Social Services Law, are held at
37 a time and place convenient for the family;

1 (e) If reunification is the goal, evidence demonstrating that the parent from whom the
2 child was removed provided input from the members of the family and permanency team;

3 (f) Evidence that the assessment required under section 409-h of the Social Services
4 Law is determined in conjunction with the family and permanency team;

5 (g) The placement preferences of the family and permanency team relative to the
6 assessment that recognizes children should be placed with their siblings unless there is a
7 finding by the court that such placement is contrary to their best interest; and

8 (h) If the placement preferences of the family and permanency team and child are not
9 the placement setting recommended by the qualified individual conducting the assessment
10 under section 409-h of the Social Services Law, the reasons why the preferences of the team
11 and of the child were not recommended.

12 (ii) Details regarding the assessment conducted by the qualified individual, as such term
13 is defined in section 441.2 of this part, including, but not limited to:

14 (a) The written assessment completed by a qualified individual; and

15 (b) The determination of whether the child's needs can be met in a foster home, and if it
16 was determined by the qualified individual that the needs of the child cannot be met by the
17 family of the child or in a foster family home, in accordance with section 409-h of the Social
18 Services Law, the specific reasons why; and

19 (iii) Documentation of the court's findings at the court review of the placement in a
20 qualified residential treatment program in accordance with sections 393 of the Social Services
21 Law, or section 353.7, 756-b, 1055-c, 1091-a, or 1097 of the Family Court Act, as may be
22 applicable.

23 (iv) If the child meets the definition of long stayer as provided for in section 439.5 of this
24 Title and a long stayer review is conducted in accordance with that section, the determination of
25 the commissioner of OCFS, or the commissioner's designee, regarding the appropriateness of
26 the child's continued placement in a qualified residential treatment program.

27 (4) If a youth is parenting a child, as part of a parenting youth and child of parenting
28 youth unit as defined in section 427.2 of this Title, the uniform case record shall be updated to
29 include information on casework contacts with both the parenting youth and child of the
30 parenting youth as required under section 441.21 of this Title.

31 8. A new Part 439 is added to Article 3 of Volume B of Title 18 of the Official Compilation
32 of Codes, Rules and Regulations of the State of New York to read as follows:

33 PART 439 QUALIFIED RESIDENTIAL TREATMENT PROGRAMS

34 439.1 Applicability

35 439.2 Required Assessment

1 439.3 Family and Child Permanency Team

2 439.4 Qualified Residential Treatment Program Requirements

3 439.5 Long Stayers - Special Provisions

4 439.6 Aftercare

5 439.7 Certification for Qualified Residential Treatment Programs

6 439.8 Waivers

7 439.1 Applicability. The provisions of this Part shall apply whenever, on or after
8 September 29, 2021, a child in the care and custody or the custody and guardianship of the
9 commissioner of a local social services district or the Office of Children and Family Services is:

10 (a) Placed into a qualified residential treatment program, as such term is defined in
11 section 441.2 of this Title on or after September 29, 2021; or

12 (b) Where placement of a child into a qualified residential treatment program is
13 contemplated and an assessment in accordance with section 439.2 of this Part and in
14 accordance with section 409-h of the Social Services Law is initiated regarding potential
15 placement of a child into a qualified residential treatment program on or after September 29,
16 2021.

17 439.2 Required Assessment.

18 (a) Prior to a child's placement in a qualified residential treatment program, as defined in
19 section 441.2 of this Title, but at least within 30 days of the start of a placement in a qualified
20 residential treatment program of where the placement into the qualified residential treatment
21 program would occur on or after September 29, 2021, a qualified individual as defined in section
22 441.2 of this Title shall complete an assessment as to the appropriateness of such placement
23 utilizing an age-appropriate, evidence-based, validated, functional assessment tool approved by
24 the federal government for such purpose.

25 (b) Such assessment shall be in accordance with section 409-h of the Social Services
26 Law and any applicable federal requirements, and shall include, at minimum:

27 (1) An assessment of the strengths and needs of the child;

28 (2) A determination of the most effective and appropriate level of care for the child in the
29 least restrictive setting, including whether the needs of the child can be met with family
30 members or through placement in a foster family home, or a qualified residential treatment
31 program or a qualified residential treatment program exception, as such terms are defined in
32 section 441.2 of this Title, consistent with the short-term and long-term goals for the child as
33 specified in the child's permanency plan. Such assessment shall be completed in conjunction
34 with the family and permanency team established pursuant to section 439.3 of this Part; and

1 (3) Develop a list of child-specific short-and long-term mental and behavioral health
2 goals.

3 439.3 Family and Permanency Team

4 (a) If an assessment is initiated pursuant to section 439.2 of this Part and in accordance
5 with section 409-h of the Social Services Law, the social services district shall assemble a
6 family and permanency team for the child as such term is defined in section 441.2 of this Title.
7 The qualified individual, as such term is defined in section 441.2 of this Title, that is conducting
8 the assessment required under section 409-h of the Social Services Law shall work in
9 conjunction with the team while conducting and making the assessment.

10 (b) The family and permanency team shall consist of all appropriate biological family
11 members, relatives, and fictive kin of the child as well as, as appropriate, professionals who are
12 a resource to the family of the child, such as the attorney for the child or the attorney for the
13 parent, if applicable, and teachers, medical or mental health providers who have treated the
14 child, or clergy. In the case of a child who has attained age 14, the family and permanency team
15 shall include the members of the permanency planning team for the child that are selected by
16 the child in accordance with 42 United States Code section 675 and the state's approved Title
17 IV-E state plan.

18 (c) The social services district shall document in the child's case plan those items as set
19 forth in section 428.5 of this Title pertaining to the formation and preferences of the family and
20 permanency team.

21 439.4 Qualified Residential Treatment Program Requirements

22 (a) A qualified residential treatment program as defined in section 441.2 of this Title shall
23 meet all applicable requirements contained within Parts 442, 447 and 448 of this Title, as
24 applicable, except:

25 (1) As expressly stated within this section;

26 (2) Where there is a conflict between the standards in this Part and standards set forth
27 elsewhere in this Title, in which case the standards set forth in this Part shall apply; or

28 (3) When a waiver or exception to the particular regulatory requirement is granted under
29 this Title.

30 (b) A qualified residential treatment program must also meet the following requirements:

31 (1) A qualified residential treatment program must be operated by an authorized
32 agency as defined in section 371 of the Social Services Law and must meet applicable federal
33 and state statutory requirements and administrative directives issued by the Office for qualified
34 residential treatment programs.

35 (2) The provisions of Parts 476 and 477 of this Title shall apply to any application for,
36 and issuance and conditions of, an operating certificate to operate a qualified residential
37 treatment program.

1 (3) The qualified residential treatment program must have a trauma-informed treatment
2 model designed to address the needs, of children with serious emotional or behavioral
3 disorders, including clinical needs as appropriate, as approved by the Office. Such trauma-
4 informed model must align with nationally recognized standards for trauma-informed principles
5 and meet the requirements set by the Office, which may include, but not be limited to, a plan for:

6 (i) Implementation of the use of evidence-based, peer-reviewed and research-supported
7 clinical practices;

8 (ii) Staff training and development regarding how trauma-informed care will be provided
9 within the program, including, but not necessarily limited to, a description of initial and ongoing
10 training for staff; and

11 (iii) How the staff leadership of the qualified residential treatment program will implement
12 the qualified residential treatment model of care, including, but not limited to a description of:

13 (a) What measures or indicators are included in an organizational assessment that
14 evaluates progress and ongoing status of implementation;

15 (b) How feedback on measures or indicators from staff, children and youth, and other
16 family members will be gathered;

17 (c) Efforts to sustain the qualified residential treatment program's model of care; and

18 (d) Efforts to promote among staff and throughout the program, including work with the
19 children and families, cultural awareness, and competency regarding race, culture, gender,
20 sexual orientation and socioeconomic factors

21 (4) The qualified residential treatment program shall have available 24 hours a day, seven
22 days a week:

23 (i) Nursing available from either a registered nurse or licensed nurse practitioner; and

24 (ii) Other licensed clinical staff who provide care on-site and within the scope of their
25 practice as defined by state law in accordance with the selected treatment model for the qualified
26 residential treatment program as approved by the Office of Children and Family Services.

27 (5) The qualified residential treatment program must have programs, approved by the
28 Office, regarding facilitation of family and resource outreach and inclusion in the treatment
29 process of including a plan of how the qualified residential treatment program will:

30 (i) Conduct case activities with the needs of the children, youth and/or parent(s) in mind;

31 (ii) Elicit children's, youth's and/or parents' understanding and perspective on case
32 circumstances;

33 (iii) Conduct case discussions with transparency, including conversations regarding
34 permanency options and concurrent planning; and

1 (iv) Demonstrate active involvement of children, youth and family in case planning
2 discussions

3 (6) Qualified residential treatment programs must incorporate the child's family and
4 permanency team as defined in section 441.2 of this Title into the activities of the child's support
5 team as required by section 441.22 of this Title.

6 (7)(i) The program must provide discharge planning.

7 (ii) Discharge planning must begin on the first day of placement.

8 (a) The discharge plan must be developed in conjunction with the support team and as
9 appropriate, with input from health care providers, mental health service providers, other service
10 providers involved with the child, the parent/caretaker, identified kin or fictive kin resources and
11 the child; and

12 (b) Goals in a child's discharge plan must be measurable and contain factors that may
13 include, but not be limited to the following:

14 (1) Goals based on the child's support plan;

15 (2) A permanency goal that addresses the reasons for placement in the qualified
16 residential treatment program and how the child's living arrangement will be supported post-
17 discharge;

18 (3) An education goal that describes the child's educational needs, whether any special
19 education services are required, and how this goal will be supported post-discharge;

20 (8) Aftercare. The qualified residential treatment program must offer and plan to provide
21 at least six months of aftercare services in accordance with section 439.6 of this Part.

22 (9) The program must be certified by the Office of Children and Family Services in
23 accordance with section 439.7 of this Part.

24 439.5 Long Stayers – Special Provisions

25 (a) As used in this section the term "long stayer" shall mean any child who is placed in a
26 qualified residential treatment program as defined in section 441.2 of this Title, for:

27 (1) More than 12 consecutive months when the child is age 13 or over; or

28 (2) More than 18 nonconsecutive months when the child is age 13 or over; or

29 (3) More than 6 consecutive or nonconsecutive months when the child has not yet
30 attained 13 years of age.

31 (b)(1) The local department of social services with care and custody or care custody and
32 guardianship of the child who may become a long stayer as defined in subdivision (a) of this

1 section, must submit a justification for such continued placement to the Office for a long stayer
2 review, as described in this section.

3 (2)(i)(a) Prior to the local department of social services submitting a justification for
4 continued placement of a child in a qualified residential treatment program to the Office for a
5 long stayer review, such local department of social services shall arrange for a review .

6 (b) Such review shall consider, at minimum:

7 (1) An assessment of the strengths and needs of the child;

8 (2) A determination of the most effective and appropriate level of care for the child in the
9 least restrictive setting, including whether the needs of the child can be met with family
10 members or through placement in a foster family home, or a qualified residential treatment
11 program or a qualified residential treatment program exception, as such terms are defined in
12 section 441.2 of this Title, consistent with the short-term and long-term goals for the child as
13 specified in the child's permanency plan; and

14 (3) Develop a list of child-specific short-and long-term mental and behavioral health
15 goals.

16 (ii) For children age 13 or older approaching 12 consecutive months in a qualified
17 residential treatment program, such justification shall be submitted by the local department of
18 social services on or before day 310 of the child's placement;

19 (iii) For children age 13 or older approaching 18 nonconsecutive months in a qualified
20 residential treatment program, such justification shall be submitted by the local department of
21 social services on or before day 485 of the child's placement; and

22 (iv) For children under age 13, such-justification shall be submitted by the local
23 department of social services on or before day 125 of the child's placement in a qualified
24 residential treatment program.

25 (c) The local department of social services with care and custody or care, custody and
26 guardianship of the child shall be responsible for submitting to a qualified individual, or team of
27 staff including licensed clinician(s) that have been regularly serving the child in the qualified
28 residential treatment programs, all the necessary documentation to conduct the review required
29 under this paragraph .

30 (d) Prior to submission of the necessary information to a local department of social
31 services for submission to the Office of Children and Family Services, a qualified individual or
32 team of staff including licensed clinician(s) that have been regularly serving the child in the
33 qualified residential treatment programs, shall:

34 (1) Review all relevant information;

35 (2) Conduct an evaluation in accordance with t clause (b) of subparagraph (i) of
36 paragraph (2) of this subdivision;

1 (3) Make a recommendation as to the necessity of the child's continued placement in a
2 qualified residential treatment program; and

3 (4) Provide a written copy of such evaluation to the applicable local department of social
4 services for submission to the Office of Children and Family Services.(e) (1)If the child is in the
5 care and custody or care or custody and guardianship of a local department of social services,
6 the commissioner of such local department of social services or their designee must review and
7 certify the recommendation. As part of its review, the local department of social services shall:

8 (i) Review all relevant information;

9 (ii) Consider the evaluation in accordance with clause (b) of subparagraph(i) of
10 paragraph (2) of this subdivision;

11 (iii) Make a recommendation as to the necessity of the child's continued placement in a
12 qualified residential treatment program; and

13 (iv) Enter such determination into the system of record.

14
15 (f) If the local department of social services with care and custody or care, custody and
16 guardianship of the child, following review of the justification for the child completed pursuant to
17 paragraph (2) of this subdivision (b) of this section, determines that it is appropriate for the child
18 to remain in the qualified residential treatment program placement, then such local department
19 of social services shall submit to the Office of Children and Family Services:

20 (1) For children age 13 or older approaching 12 consecutive months in a qualified
21 residential treatment program, such determination shall be submitted by the local department of
22 social services on or before day 320 of the child's placement.

23 (2) For children age 13 or older 18 nonconsecutive months in a qualified residential
24 treatment center, such determination shall be submitted by the local department of social
25 services on or before day 495 of the child's placement.

26 (3) For children under age 13, such determination shall be submitted by the local
27 department of social services on or before day 135 of the child's placement in a qualified
28 residential treatment program.

29 (g) The Office of Children and Family Services will conduct a long stayer review, utilizing
30 a long stayer review team, to determine if a continued placement in a qualified residential
31 treatment program level of care is appropriate and required.

32 (1) Upon receipt of the required information the long stayer review team shall:

33 (i) Review the documentation for completeness. If the documentation is incomplete or if
34 no such determination is submitted by the date due, the long stayer review team shall promptly
35 notify the local department of social services that, if the missing information is not submitted

1 within two days, the Office of Children and Family Services may deny the request for continued
2 placement in a qualified residential treatment program.

3 (ii) If the long stayer review team determines that continued placement in the qualified
4 residential treatment program is not supported, notify the local department of social services
5 and the qualified residential treatment program of its decision and recommend that an
6 appropriate placement be found for the child.

7 (a) For children age 13 or older approaching 12 consecutive months in a qualified
8 residential treatment program, such notification shall be made by day 335 of the child's
9 placement.

10 (b) For children age 13 or older approaching 18 nonconsecutive months in a qualified
11 residential treatment program, such notification shall be made by day 515 of the child's
12 placement.

13 (c) For children under age 13, such notification shall be made by day 155 of the child's
14 placement in a qualified residential treatment program.

15 (iii) If the long stayer review team determines that continued placement in the qualified
16 residential treatment program is supported, it shall submit its recommendation to the
17 commissioner of the Office of Children and Family Services, or such commissioner's designee,
18 for review and consideration, and for such commissioner or such commissioner's designee to
19 make a determination regarding the appropriateness of the child's continued placement in a
20 qualified residential treatment program.

21 (a) For children age 13 or older approaching 12 consecutive months in a qualified
22 residential treatment program, such recommendation shall be submitted by day 340 of the
23 child's placement.

24 (b) For children age 13 or older approaching 18 nonconsecutive months in a qualified
25 residential treatment program, such recommendation shall be submitted by day 520 of the
26 child's placement.

27 (c) For children under age 13, such recommendation shall be submitted by day 160 of
28 the child's placement in a qualified residential treatment program.

29 (f) Formal notification of the commissioner's determination will be forwarded to any
30 applicable local department of social services and the qualified residential treatment program
31 and documented in the system of record.

32 (1) For children age 13 or older approaching 12 consecutive months in a qualified
33 residential treatment program, such determination shall be forwarded by day 365 of the child's
34 placement.

35 (2) For children age 13 or older approaching 18 nonconsecutive months in a qualified
36 residential treatment program, such determination shall be forwarded by day 540 of the child's
37 placement.

1 (3) For children under age 13, such information shall be submitted by day 180 of the
2 child's placement in a qualified residential treatment program.

3 439.6 Aftercare

4 (a) Youth who are stepped down to a placement in a foster family-home or discharged
5 from foster care from a qualified residential treatment program must be offered, at minimum, six
6 months of aftercare services as such term is defined in section 441.2 of this Title by the agency
7 that provided the qualified residential treatment services.

8 (b) Qualified residential treatment programs shall:

9 (1) Begin planning discharge and aftercare services for every child entering their
10 qualified residential treatment program within 72 hours of the child's entry into that residential
11 program and incorporate such planning into the child's discharge planning activities required
12 pursuant to section 439.4 of this Part;

13 (2) Utilize the support team plan developed in accordance with section 441.22 of this
14 Title to identify the goals and objectives that will guide the discharge and aftercare plan;

15 (3) Provide or contract for the provisions services identified by the support team and
16 aftercare plan for at least six months.

17 (c)The local department of social services with care and custody or custody and
18 guardianship of the child must partner with the authorized agencies operating the qualified
19 residential treatment programs around each child's aftercare goals and objectives where
20 necessary.

21 439.7 Certification for Qualified Residential Treatment Programs

22 (a) Any authorized agency may apply to the Office of Children and Family Services for
23 certification for the program as a qualified residential treatment program. Such application must
24 be in writing and shall be made in the time and manner as directed by the Office of Children and
25 Family Services.

26 (b) At minimum, such application must:

27 (1) Demonstrate that the program is in compliance with requirements of this Part and,
28 specifically, any requirement that may apply to a qualified residential treatment program through
29 application of Parts 441 or 442 of this Title.

30 (2) Demonstrate that the program has obtained approval from the Office of Children and
31 Family Services for the requisite manuals, policies and procedures for certification as a qualified
32 residential treatment program, including, but not necessarily limited to:

33 (i) Policy and policy manuals required by section 441.4 of this Title;

34 (ii) Appropriate policies and procedures specific to the care and services that must be
35 provided to children anticipated to be placed in the qualified residential treatment program and

1 their families as may be required by this Part or a policy or administrative directive of the Office
2 of Children and Family Services.

3 (3) Any other information as may be required by the Office of Children and Family
4 Services.

5 439.8 Waivers

6 (a) Any provision of other Parts of this Title notwithstanding, a written waiver of one or
7 more of the non-statutory requirements of this Title may be issued by the Office of Children and
8 Family Services to an applicant for, or the holder of, an operating certificate from the Office of
9 Children and Family Services to operate a qualified residential treatment program under this
10 Part. Provided however, that no program may apply for a waiver for any requirements regarding
11 non-discrimination. A waiver pursuant to this section may be issued at the time of application for
12 an operating certificate to become a qualified residential treatment program or subsequent to
13 the issuance of an operating certificate to operate a qualified residential treatment program. A
14 program which applies for a waiver subsequent to the issuance of an operating certificate to be a qualified
15 residential treatment program, must operate in full compliance with the regulations at all times
16 prior to the issuance of a waiver.

17 (b) An applicant for, or holder of, a certificate to operate a qualified residential treatment
18 program must submit to the Office of Children and Family Services, in writing, any request for a
19 waiver pursuant to this section. The Office of Children and Family Services may prescribe a
20 form to be used for waiver requests. The application for a waiver must include:

21 (1) The specific regulation or regulations for which a waiver is
22 sought;

23 (2) The reason a waiver is necessary; and

24 (3) A description of what will be done to achieve or maintain the intended purpose of the
25 regulation or regulations for which a waiver is sought and to protect the health, safety and
26 welfare of the youth in the program.

27 (c) The Office of Children and Family Services may require the applicant for, or holder
28 of, an operating certificate to make physical plant modifications, and/or to adopt special
29 methods, procedures, and/or policies to protect the health, safety and welfare of youth as a
30 condition of granting and maintaining a waiver granted pursuant to this section.

31 (d) Written approval of a request for a waiver will be granted only pursuant to a
32 determination by the Office of Children and Family Services that the proposed waiver will not
33 adversely affect the health, safety or welfare of the youth in the program and that the intended
34 purpose of the regulation or regulations to be waived will be met.

35 (e) Waivers may be time limited, at the discretion of the Office of Children and Family
36 Services. Where a waiver is time limited, the program may apply for a continuation of the
37 waiver. If the program does not apply for a continuation of the time-limited waiver or the
38 continuation of the time-limited waiver is not granted by the Office of Children and Family

1 Services, the program must resume compliance with the regulation or regulations for which the
2 waiver had been issued upon the expiration of the waiver.

3 (f) Failure to adhere to the terms of the waiver and to any alternative measures required
4 by the Office of Children and Family Services as a condition of granting the waiver will result in
5 recission of the waiver and may constitute sufficient cause for the Office of Children and Family
6 Services to limit, suspend, or revoke the operating certificate of the qualified residential
7 treatment program for which the waiver was granted. The Office of Children and Family
8 Services must notify the program in writing of the recission of a waiver, and the recission will
9 become effective upon the receipt by the program of the written notification. The written
10 notification of the recission may be communicated through personal delivery, electronic mail,
11 telefax or regular mail, at the discretion of the Office of Children and Family Services.

12 9. Article 3 of Volume B of Title 18 of the Official Compilation of Codes, Rules and
13 Regulations of the State of New York is amended to add a new Part 440 to read as follows:

14 PART 440 PROGRAMS FOR YOUTH WHO HAVE BEEN OR ARE AT-RISK OF SEX
15 TRAFFICKING

16 440.1 Purpose

17 440.2 Definitions

18 440.3 Approval

19 440.4 General Requirements

20 440.5 Other Applicable Standards

21 440.6 Waivers

22 440.1 Purpose. The purpose of this Part is to establish the requirements to operate a
23 program that provides high-quality residential care and supportive services to children and
24 youth aged 10 and older who have been found to be, or are at risk of becoming, survivors of sex
25 trafficking.

26 440.2 Definitions

27 (a) Approval to operate a facility means a written operating certificate issued by the
28 Office to an authorized agency to operate a group home, agency boarding home or institution
29 facility in accordance with all applicable regulations.

30 (b) Culture includes but is not limited to the practices of people in the facility that
31 promote healing, connection and participation in self-growth of youth and families.

32 (c) Facility is defined as the building and grounds of a group home, agency
33 boarding home or institution, as those terms are defined in section 441.2 of this Title, that has
34 been approved by the Office pursuant to Parts 476 or 477 of this Title.

1 (d) Justice Center means the New York State Justice Center for the Protection of People
2 With Special Needs.

3 (e) Office means the Office of Children and Family Services.

4 (f) Permanency resources is defined as an individual or individuals who are willing and
5 available to care for the youth upon discharge.

6 (g) Positive youth development is defined as an intentional, prosocial approach that
7 engages youth within their communities, schools, organizations, peer groups, and families in a
8 manner that is productive and constructive; recognizes, utilizes, and enhances young people's
9 strengths; and promotes positive outcomes for young people by providing opportunities,
10 fostering positive relationships and furnishing the support needed to build on their leadership
11 strengths.

12 440.3 Approval.

13 (a) An authorized agency shall apply to the Office in writing for an operating certificate to
14 operate a group home, agency boarding home or institution as a facility in which this program
15 type operates, in a form and manner as required by the Office.

16 (1) At minimum, such application shall:

17 (i) Demonstrate that the facility is in compliance with requirements of this Part and,
18 specifically, any requirement that may apply to a program for youth who have been or are at-risk
19 of sex trafficking through application of Part 441 of this Title and that the program will serve no
20 more than 12 youth;

21 (2) Demonstrate that the facility has obtained approval from the Office for the requisite
22 manuals, policies and procedures for certification as a program for youth who have been or are
23 at-risk of sex trafficking, including, but not necessarily limited to:

24 (i) Policy and policy manuals required by section 441.4 of this Title; and

25 (ii) Policies and procedures specific to the care and services that shall be provided to
26 youth and their families who may be served in a program for youth who have been or are at-risk
27 of sex trafficking as may be required by this Part or a policy or administrative directive of the
28 Office; and

29 (3) Any other information as may be required by the Office.

30 (b) The provisions of Parts 476 and 477 of this Title shall apply to any application for,
31 and issuance and conditions of, an operating certificate to operate a group home, agency
32 boarding home or institution as a facility for this program type.

33 440.4 General Requirements.

34 (a) Programs shall have a physical environment, culture and programming to support
35 the healing of youth who have experienced significant sexual trauma.

1 (b) Physical Plant. In addition to all physical plant requirements set forth in Parts 442,
2 447 and 448 as applicable, facilities shall additionally maintain a physical environment that
3 is home-like and welcoming.

4 (1) Furnishings shall be maintained in good and clean condition, and be durable without
5 being institutional in nature, materials and design.

6 (2) The facility should apply standards of design and materials that are trauma-
7 responsive as required by the Office. Such standards include efforts to minimize noise, and the
8 use of color and light to promote healing and calming responses.

9 (3) Single occupancy bedrooms should be made available to each youth. Youth may opt
10 to share a bedroom with one other youth in a bedroom that meets all requirements with Parts
11 442, 447 and Part 448 as applicable.

12 (c) Program Requirements.

13 (1) A program must provide high-quality residential care and supportive community-based
14 services tailored to the needs of adolescents and young adults as approved by the Office. The
15 program must meet the cultural, therapeutic, medical, developmental and recreational needs of
16 the youth as required by the Office.

17 (2) Therapeutic model. Programs must utilize therapeutic approaches that are evidence
18 based or evidence informed to promote healing for adolescents with complex sexual trauma
19 histories.

20 (3) Health care and health education. Programs must provide comprehensive sexual
21 health education and health care that is responsive to youth with sexual trauma.

22 (4) Education and vocational supports. Programs must provide access to community-
23 based education and vocational services and opportunities to children and youth served.

24 (d) Program culture.

25 (1) Programs must be strengths based, rooted in positive youth development, and
26 provide community-based opportunities for youth to thrive as required by the Office.

27 (2) The program must create a positive affirming environment for youth of all racial and
28 ethnic backgrounds and gender identities and sexual orientations.

29 (3) The culture should reflect and affirm the backgrounds and identities of the youth and
30 families and be oriented toward self-efficacy and risk tolerance.

31 (e) Youth engagement and positive youth development. Programs must include
32 meaningful opportunities for youth voice, choice and leadership in their lives, in the program and
33 in their community. Such engagement should include input into hiring, program design,
34 behavioral supports and other areas as required by the Office.

1 (f) Policies and procedures manual. Programs must maintain a policy and procedure
2 manual, which is to be updated with input from youth and families, as required by the Office.

3 (g) Youth manual. Programs must have a youth manual written in plain, youth-
4 friendly language that clearly explains the rights and responsibilities of youth, program rules and
5 other elements as required by the Office. Manuals must be reviewed annually, and there must
6 be a process by which youth are involved in the updates.

7 (h) Engagement of permanency resource(s). Programs must engage and
8 support youth's permanency resources. Such support may include but not be limited to:

9 (1) Psychoeducation about commercial sexual exploitation and trafficking;

10 (2) Safety planning, including online safety;

11 (3) Prevention for siblings and other youth in the home, as applicable;

12 (4) Addressing stigma; and

13 (5) Therapeutic supports to facilitate a successful transition and discharge plan;

14 (i) Staffing.

15 (1) Programs must have direct care and supervisors of direct care staff to meet the
16 needs of youth and as required by the Office.

17 (2) Programs should implement a staff recruitment and retention strategy
18 that encourages the employment of persons with relevant lived experiences.

19 (3) Programs should provide supportive supervision and opportunities for self-care to all
20 staff to address any secondary traumatic stress.

21 (j) Aftercare. Programs must provide for aftercare to youth and families as required by
22 the Office.

23 (k) Admissions and Discharges.

24 (1) Admission. Youth of all gender identities and expressions may be admitted to
25 a program; provided however a youth should not be admitted to a program that primarily serves
26 youth of other gender identities or expressions unless other options have been explored, or the
27 youth otherwise meets the requirements for admission to such program and agrees to be
28 admitted to such program.

29 (2) Discharge. Youth shall not be discharged solely due to frequent episodes of leaving a
30 program without consent or destruction of property.

31 (l) Office approval. Programs must seek Office approval for changes to any
32 approved program model, staffing plan, therapeutic approach, admission and discharge
33 procedure, or aftercare services.

1 440.5 Other Applicable Standards.

2 (a) An institution, group home or agency boarding home holding an operating certificate
3 from the Office as a facility in which this program type will operate shall comply with all
4 standards otherwise applicable to such facility pursuant to this Title, except where there is a
5 conflict between the standards in this Part and standards set forth elsewhere in this Title, in
6 which case the standards set forth in this Part shall apply. Placements into these facilities and
7 any changes in the placement of such youth shall be subject to all applicable provisions of the
8 Family Court Act, section 404 of the Social Services Law, and all other applicable provisions of
9 law in addition to the requirements of this Part.

10 (b) Office staff performing official functions shall have full access at all times to the
11 grounds and buildings of these programs and facilities, the staff and residents, and any records
12 of the facility in whatever form the records are maintained, including electronic and video
13 records. The Office may require from the persons and/or agency operating the facility and/or
14 program any information or documents the Office deems necessary for the discharge of
15 the Office's oversight of the facility and/or program.

16 (c) A group home, agency boarding home or institution holding an operating certificate
17 from the Office as a facility in which this program type will operate shall be subject to and must
18 comply with the requirements as set forth in Part 433 of this Title.

19 (d) A group home, agency boarding home or institution holding an operating certificate
20 from the Office as a facility in which this program type will operate shall be subject to and must
21 comply with the requirements set forth in Part 441 of this Title and, as applicable to the type of
22 facility, Parts 442, 447 or 448 of this Title.

23 (e) Records of youth in a facility in which this program type will operate or
24 receive programming as defined in this Part shall be maintained in the form and manner
25 required by the Office, including but not limited to maintenance of those records required by
26 the Office to be maintained in the system of record in the same manner as records for youth in
27 foster care under the Social Services Law and Part 428 of this Title.

28 (f) Records concerning youth in these facilities or receiving this programming are
29 confidential and shall be subject to the provisions of section 372 of the Social Services Law and
30 any other applicable provisions of law concerning the confidentiality of records. Information that
31 could reasonably identify a youth as being in such a program or facility shall not be released by
32 the Office, a social services district, or an authorized agency, except as otherwise provided by
33 law.

34 440.6 Waivers.

35 (a) Any provision of other Parts of this Title notwithstanding, a written waiver of one or
36 more of the non-statutory requirements of this Title may be issued by the Office to an applicant
37 for, or the holder of, an operating certificate from the Office to operate a program for youth who
38 have been or are at-risk of sex trafficking under this Part. Provided however, that no program
39 may apply for a waiver for any requirements regarding non-discrimination. A waiver pursuant to
40 this section may be issued at the time of application for an operating certificate to become a
41 program for youth who have been or are at-risk of sex trafficking or subsequent to the issuance
42 of an operating certificate to program for youth who have been or are at-risk of sex trafficking. A

1 program which applies for a waiver subsequent to the issuance of an operating to be a program
2 for youth who have been or are at-risk of sex trafficking, must operate in full compliance with the
3 regulations at all times prior to the issuance of a waiver.

4 (b) An applicant for, or holder of, a certificate to operate a program for youth who have
5 been or are at-risk of sex trafficking must submit to the office, in writing, any request for a waiver
6 pursuant to this section. The Office may prescribe a form to be used for waiver requests. The
7 application for a waiver must include:

8 (1) The specific regulation or regulations for which a waiver is
9 sought;

10 (2) The reason a waiver is necessary; and

11 (3) A description of what will be done to achieve or maintain the intended purpose of the
12 regulation or regulations for which a waiver is sought and to protect the health, safety and
13 welfare of the youth in the program.

14 (c) The Office may require the applicant for, or holder of, an operating certificate to make
15 physical plant modifications, and/or to adopt special methods, procedures, and/or policies to
16 protect the health, safety and welfare of youth as a condition of granting and maintaining a
17 waiver granted pursuant to this section.

18 (d) Written approval of a request for a waiver will be granted only pursuant to a
19 determination by the Office that the proposed waiver will not adversely affect the health, safety
20 or welfare of the youth in the program and that the intended purpose of the regulation or
21 regulations to be waived will be met.

22 (e) Waivers may be time limited, at the discretion of the Office. Where a waiver is time
23 limited, the program may apply for a continuation of the waiver. If the program does not apply
24 for a continuation of the time-limited waiver or the continuation of the time-limited waiver is not
25 granted by the Office, the program must resume compliance with the regulation or regulations
26 for which the waiver had been issued upon the expiration of the waiver.

27 (f) Failure to adhere to the terms of the waiver and to any alternative measures required
28 by the Office as a condition of granting the waiver will result in rescission of the waiver and may
29 constitute sufficient cause for the Office to limit, suspend, or revoke the operating certificate of
30 the program for youth who have been or are at-risk of sex trafficking for which the waiver was
31 granted. The Office must notify the program in writing of the rescission of a waiver, and the
32 rescission will become effective upon the receipt by the program of the written notification. The
33 written notification of the rescission may be communicated through personal delivery, electronic
34 mail, telefax or regular mail, at the discretion of the Office.

35 10. Paragraph (3) of subdivision (a) of section 441.2 of Title 18 of the Official
36 Compilation of Codes, Rules and Regulations of the State of New York is amended to read as
37 follows:

38 (3) Placement.

1 (i) the child's care and custody or guardianship and custody have been transferred to an
2 authorized agency pursuant to the provisions of section 358-a, 383-c, 384 or 384-a of the Social
3 Services Law; or

4 (ii) the child has been placed with a social services official pursuant to article 3, 7, 10,
5 10-B or 10-C of the Family Court Act.

6 11. Subdivisions (h) and (i) of section 441.2 of Title 18 of the Official Compilation of
7 Codes, Rules and Regulations of the State of New York are amended to read as follows:

8 (h) Group home means a family-type home for the care and maintenance of not less
9 than seven, nor more than 12, children who are at least five years of age, operated by an
10 authorized agency, in quarters or premises owned, leased or otherwise under the control of
11 such agency, except that such minimum age shall not be applicable to siblings placed in the
12 same facility nor to children whose [mother] parent is placed in the same facility.

13 (i) Agency boarding home means a family-type home for the care and maintenance of
14 not more than six children operated by an authorized agency, in quarters or premises owned,
15 leased or otherwise under the control of such agency, except that such a home may provide
16 care for more than six [brothers and sisters] siblings of the same family.

17 12. Subdivision (k) of section 441.2 of Title 18 of the Official Compilation of Codes,
18 Rules and Regulations of the State of New York is amended to add a new paragraph (7) to read
19 as follows:

20 (7) Carbon monoxide detector means a device that detects the presence of carbon
21 monoxide (CO) gas to prevent carbon monoxide poisoning.

22 13. Section 441.2 of Title 18 of the Official Compilation of Codes, Rules and
23 Regulations of the State of New York is amended to add new subdivisions (q), (r), (s), (t), (u)
24 and (v) to read as follows:

25 (q) Family and permanency team means the family and child permanency team that is
26 required to be assembled in accordance with section 409-h of the Social Services Law and
27 section 439.2 of this Title.

28 (r) Qualified individual means a trained professional or licensed clinician acting within
29 their scope of practice who shall have current or previous relevant experience in the child
30 welfare field and who shall conduct the assessment required for a child in accordance with
31 section 409-h of the Social Services Law and section 439.2 of this Title. Such individual shall
32 not be an employee of the Office of Children and Family Services, nor shall such person have a
33 direct role in case management or case planning decision-making authority for the child for
34 whom such assessment is being conducted, in accordance with 42 United States Code sections
35 672 and 675a and the state's approved Title IV-E state plan.

36 (s) Qualified residential treatment program means a program that is a non-foster family
37 residential program in accordance with 42 United States Code sections 672 and 675a and the
38 state's approved Title IV-E state plan and that meets the requirements of section 439.4 of this
39 Title and which is approved by the Office to operate as a qualified residential treatment
40 program.

1 (t) Aftercare shall mean services and supports provided to a child and, where applicable,
2 such child's family or discharge resource to increase the success and well-being of the child
3 when stepped-down to a home-based placement or when discharged from foster care
4 altogether.

5 (u) Qualified residential treatment program exception means: a supervised setting as
6 defined in section 371 of the Social Services Law and governed by Part 449 of this Title; a
7 program for youth who have been or at risk of sex trafficking governed by Part 440 of this Title;
8 or a specialized program to serve prenatal, postpartum or parenting youth certified pursuant to
9 this Title.

10 (v) Child of a parenting youth, means a child, children or an infant who is not in foster
11 care but who resides with their parent who is in foster care, pursuant to paragraph (3) of
12 subdivision (a) of this section, and where the child and parent are part of a parenting youth and
13 child of a parenting youth unit as such term is defined in section 427.2 of this Title.

14 14. Subdivision (a) of section 441.4 of the Official Compilation of Codes, Rules and
15 Regulations of the State of New York is amended to read as follows:

16 (a) Each child-care agency and facility operated by such agency will maintain, and keep
17 current and available, a manual or manuals which clearly state the policies of such agency with
18 respect to its programs including policies on agency continuous quality improvement, admission
19 criteria and procedures, psychiatric and medical care, social services, treatment of youth of all
20 sexual orientations, genders, gender identities and expression, child care, education, religious
21 observance, religious instruction and training, discharge criteria and procedures, discipline and
22 restraint, appropriate custodial conduct, children's rights, use of de-escalation rooms, shelter,
23 clothing, youth's personal property, diet, work and recreation, plant maintenance, fire, sanitation
24 and safety, and any other policy or procedure that is subject to approval of the Office in
25 accordance with any provision contained within this Title.

26 15. Paragraph (1) of subdivision (c) of section 441.21 of the Official Compilation of
27 Codes, Rules and Regulations of the State of New York is amended to read as follows:

28 (1) *Casework contacts with the child* is defined as individual or group face-to-face
29 contacts between the case planner, or the caseworker assigned to the child, as directed by the
30 case planner, or the case manager, and the child. The purpose of the contacts is to assess the
31 child's current safety and [well being] well-being, to evaluate or reevaluate the child's
32 permanency needs and permanency goal, and to guide the child towards a course of action
33 aimed at resolving problems of a social, emotional or developmental nature that are contributing
34 towards the reason(s) why such child is in foster care. Where a youth is parenting a child, as
35 part of a parenting youth and child of parenting youth unit as defined in section 427.2 of this
36 Title, efforts must be made to also see the child, children or infant of the parenting youth at each
37 casework contact, to assess the safety and wellbeing of such child, children or infant of the
38 parenting youth and to observe the parenting skills of the parenting youth. Such contact,
39 assessment and observations must be documented in the parenting youth's uniform case
40 record.

41 16. Subdivision (a) of section 441.24 of the Official Compilation of Codes, Rules and
42 Regulations of the State of New York is amended to read as follows:

1 (a) Authorized agency staff and volunteers shall not engage in or condone discrimination
2 or harassment against prospective foster parents, foster parents, or [foster] children in foster
3 care or any family members being served by the agency, on the basis of race, creed, color,
4 national origin, age, sex, religion, sexual orientation, gender identity or expression, marital
5 status, or disability. Authorized agencies shall promote and maintain a safe environment, take
6 reasonable steps to prevent discrimination and harassment against youth by other youth;
7 promptly investigate incidents of discrimination and harassment by staff, volunteers and youth[,];
8 and take reasonable and appropriate corrective or disciplinary action when such incidents
9 occur. Certified or approved foster parents shall not engage in discrimination or harassment
10 against [foster] children in foster care or any family members being served by the agency, on
11 the basis of race, creed, color, national, origin, age, sex, religion, sexual orientation, gender
12 identity or expression, marital status, or disability, and shall promote and maintain a safe
13 environment.

14 17. Part 441 of the Official Compilation of Codes, Rules and Regulations of the State of
15 New York is amended to add a new section 441.26 to read as follows:

16 441.26 Waivers. (a) Any provision of other Parts of this Title notwithstanding, a written
17 waiver of one or more of the non-statutory requirements of this of this Part may be issued by the
18 Office to an applicant for, or the holder of, a license or an operating certificate from the Office to
19 operate a program or facility pursuant to this Title. Provided however, that no program or facility
20 may apply for a waiver for any requirements regarding non-discrimination. A waiver pursuant to
21 this section may be issued at the time of application for a license or operating certificate to
22 become a program or facility pursuant to this Title. A program or facility which applies for a
23 waiver subsequent to the issuance of a license or operating certificate, must operate in full
24 compliance with the regulations at all times prior to the issuance of a waiver.

25 (b) An applicant for, or holder of, a license or certificate to operate a program or facility
26 pursuant to this Title must submit to the office, in writing, any request for a waiver pursuant to
27 this section. The Office may prescribe a form to be used for waiver requests. The application for
28 a waiver must include:

29 (1) The specific regulation or regulations for which a waiver is
30 sought;

31 (2) The reason a waiver is necessary; and

32 (3) A description of what will be done to achieve or maintain the intended purpose of the
33 regulation or regulations for which a waiver is sought and to protect the health, safety and
34 welfare of the youth in the program or facility.

35 (c) The Office may require the applicant for, or holder of, a license or operating
36 certificate to make physical plant modifications, and/or to adopt special methods, procedures,
37 and/or policies to protect the health, safety and welfare of youth as a condition of granting and
38 maintaining a waiver granted pursuant to this section.

39 (d) Written approval of a request for a waiver will be granted only pursuant to a
40 determination by the Office that the proposed waiver will not adversely affect the health, safety

1 or welfare of the youth in the program or facility and that the intended purpose of the regulation
2 or regulations to be waived will be met.

3 (e) Waivers may be time limited, at the discretion of the Office. Where a waiver is time
4 limited, the program or facility may apply for a continuation of the waiver. If the program or
5 facility does not apply for a continuation of the time-limited waiver or the continuation of the
6 time-limited waiver is not granted by the Office, the program or facility must resume compliance
7 with the regulation or regulations for which the waiver had been issued upon the expiration of
8 the waiver.

9 (f) Failure to adhere to the terms of the waiver and to any alternative measures required
10 by the Office as a condition of granting the waiver will result in rescission of the waiver and may
11 constitute sufficient cause for the Office to limit, suspend, or revoke the license or
12 operating certificate of the facility or program for which the waiver was granted. The Office must
13 notify the program or facility in writing of the rescission of a waiver, and the rescission will become
14 effective upon the receipt by the program of the written notification. The written notification of
15 the rescission may be communicated through personal delivery, electronic mail, telefax or regular
16 mail, at the discretion of the Office.

17 18. Section 442.17 of the Official Compilation of Codes, Rules and Regulations of the
18 State of New York is amended to read as follows:

19 442.17 [Mother and baby] Parenting facilities; special provisions. A facility for the care
20 and maintenance of [not more than 10 mothers, who themselves are children] parenting youth
21 and child of a parenting youth unit as defined in subdivision (s) of section 441.2 of this Title,
22 [and 10 babies of such mothers,] shall be in compliance all applicable laws, ordinances, rules,
23 regulations and codes relating to buildings fire protection and health and safety, and may be
24 operated in compliance with the following standards, in lieu of those provided for in sections
25 442.6 and 442.7 of this Part or of any other sections of this Part which are inconsistent with this
26 section. All other provisions of this Part shall otherwise be applicable to such facility, except the
27 requirements contained in paragraphs (1) and (2) of subdivision (b) of section 442.4 of this Part
28 [that the facility must be in substantial compliance with the State Building Construction Code].

29 (a) [Each facility which shall accept and care for newborn infants, those up to 28 days of
30 age, or below the weight of five and one-half pounds, shall comply with the provisions of the
31 rules of the Department of Health, relating to the care of such infants (Part 722 of Title 10 of the
32 Official Compilation of Codes, Rules and Regulations of the State of New York), in addition to
33 such other provisions established by or under the Public Health Law for institutions for children.
34 (b)] Plant and equipment.

35 (1) Occupancy by [mothers] parenting youth and [babies] child of a parenting youth units
36 shall not be permitted above the second floor of a building of wood frame construction, nor
37 above the third floor in a building constructed of masonry exterior walls with wood frame floors.

38 (2) All buildings shall have smoke detectors [in exit corridors, stairways, attics and
39 basements] and carbon monoxide detectors as defined in section 441.2 of this Title installed in
40 compliance with all applicable laws, ordinances, rules, regulations and codes relating to
41 buildings, fire protection and health and safety.

1 (3) Buildings partially constructed of wood exceeding three stories in height shall be
2 sprinklered throughout.

3 [(c)] (b) Sleeping accommodations.

4 [(1)] A [mother] parenting youth and [her baby] infant child of a parenting youth may
5 occupy the same sleeping rooms or adjoining sleeping rooms if requested by the parenting
6 youth and where it is determined to be in the best interest of the parenting youth and the child,
7 children or infant of the parenting youth. Where a parenting youth and child of a parenting youth
8 occupy the same sleeping room, they must have separate sleeping accommodations
9 appropriate to their age and development state and consistent with safe sleep practices;
10 provided, however, that [.

11 (2) The minimum floor area of a single sleeping room occupied by a mother shall not be
12 less than 80 square feet, and by a baby not less than 40 square feet.

13 (3) The minimum floor area of a multiple sleeping room for a mother shall not be less
14 than 60 square feet and for baby not less than 40 square feet.

15 (4) No more than three mothers and no more than three babies shall occupy any
16 sleeping room.

17 (5) The minimum horizontal dimension for a sleeping room shall be eight feet, except
18 that for a single sleeping room occupied by a baby such dimension may be seven feet.

19 (6) Each mother or baby] each infant of a parenting youth shall have a separate [bed or]
20 crib [which shall be at least two feet distant from any other bed or crib].

21 (7)] Staff members shall be provided with sleeping quarters separate from those
22 provided for the [mothers and babies] parenting youth and child of parenting youth unit.

23 [(d)] (c) Bathing and toilet facilities shall be provided as follows:

24 (1) Minimum requirements as to lavatories, tubs or showers:

[Mothers] <u>Parenting youth and child of parenting youth</u>	Lavatories	Tubs or showers
3–5	2	1
6–8	2	2
9–10	3	2

25 (2) At least one toilet shall be provided for every three [mothers] parenting youth.

26 (3) [Bathinettes, toilet training equipment and other necessities for infant bathings and
27 toilet shall be provided] Appropriate bathing and toileting equipment specific to the ages and
28 developmental stages of any child of a parenting youth served by the facility must be provided
29 and shall be kept in a safe and sanitary condition. [(e)]

1 (d) Day room [or nursery] area. A [day room, or nursery] designated area with safe, age
2 and developmentally appropriate equipment, educational items and toys shall be provided for
3 use by [the babies] any child of a parenting youth served by the program; such [day room or
4 nursery] area shall be located within easy access to a direct exit from the floor, which floor shall
5 be no more than one story above grade and in compliance with all applicable laws, ordinances,
6 rules, regulations and codes relating to buildings, applicable fire code and fire protection and
7 health and safety standards. [(f)]

8 (e) Safety.

9 (1) [Mothers] Parenting youth and staff shall be instructed at regular intervals in
10 evacuation of the building.

11 (2) No [infant] child of a parenting youth shall be permitted to remain above the first floor
12 unless attended by either [its mother] their parent or a member of staff. [(g)]

13 (f) Increased capacity.

14 (1) If a facility wishes to provide care and maintenance to more than 10 [mothers and 10
15 babies of such mothers] parenting youth and child of parenting youth unit as defined in
16 subdivision (s) of section 427.2 of this Title, the facility must first submit a written request for an
17 increase in capacity to the [appropriate office of the department] Office and receive the
18 [department's] written approval from the Office.

19 (2) Approval of such a request is subject to both an assessment of the need for the
20 [mother and baby] parenting facility to care for additional residents and the ability of the facility
21 to maintain the health and safety standards set forth in this section and to meet such other
22 requirements of this section and this Part, which the [department] Office deems appropriate.

23 19. Subdivision (e) of section 442.21 of the Official Compilation of Codes, Rules and
24 Regulations of the State of New York is amended to read as follows:

25 (e) An institution [primarily] serving [children under 12] parenting youth and a child of
26 parenting youth unit as defined in subdivision (s) of section 427.2 of this Title shall have on its
27 staff, or otherwise make provision for the services of, a pediatrician.

28 20. Subdivision (i) of section 442.21 of the Official Compilation of Codes, Rules and
29 Regulations of the State of New York is amended to read as follows:

30 (i)(1) The agency must always have on duty at least one person at each site operated
31 by an institution for each shift who is certified by the American Red Cross as trained in first aid
32 and cardiopulmonary resuscitation, including infant cardiopulmonary resuscitation if the program
33 is providing care to a parenting youth and child of a parenting youth unit as defined in
34 subdivision (s) of section 427.2 of this Title. All child care staff whose duties are predominantly
35 recreational in nature must be certified by the American Red Cross as trained in first aid.

36 (2) All nursing staff employed by an institution must be certified by the American Red
37 Cross as trained in first aid and cardiopulmonary resuscitation techniques, including infant
38 cardiopulmonary resuscitation if the program is providing care to a parenting youth and a child
39 of a parenting youth unit as defined in subdivision (s) of section 427.2 of this Title.

1 21. Section 442.25 of the Official Compilation of Codes, Rules and Regulations of the
2 State of New York is REPEALED and a new section 442.25 amended to read as follows:

3 442.25 Waivers.

4 (a) Any provision of other Parts of this Title notwithstanding, a written waiver of one or
5 more of the non-statutory requirements of this of this Part may be issued by the Office of
6 Children and Family Services to an applicant for, or the holder of, a license to operation of an
7 institution under this Part. Provided however, that no program may apply for a waiver for any
8 requirements regarding non-discrimination. A waiver pursuant to this section may be issued at
9 the time of application for a license to operate an institution. An institution which applies for a
10 waiver subsequent to the issuance of a license to operate an institution under this Part, must
11 operate in full compliance with the regulations at all times prior to the issuance of a waiver.

12 (b) An applicant for, or holder of, a license to operate an institution must submit to the
13 Office, in writing, any request for a waiver pursuant to this section. The Office of Children and
14 Family Services may prescribe a form to be used for waiver requests. The application for a
15 waiver must include:

16 (1) The specific regulation or regulations for which a waiver is
17 sought;

18 (2) The reason a waiver is necessary; and

19 (3) A description of what will be done to achieve or maintain the intended purpose of the
20 regulation or regulations for which a waiver is sought and to protect the health, safety and
21 welfare of the youth in the facility

22 (c) The Office of Children and Family Services may require the applicant for, or holder
23 of, a license to make physical plant modifications, and/or to adopt special methods, procedures,
24 and/or policies to protect the health, safety and welfare of youth as a condition of granting and
25 maintaining a waiver granted pursuant to this section.

26 (d) Written approval of a request for a waiver will be granted only pursuant to a or
27 welfare of the youth in the facility and that the intended purpose of the regulation or regulations
28 to be waived will be met.

29 (e) Waivers may be time limited, at the discretion of the Office of Children and Family
30 Services. Where a waiver is time limited, the program may apply for a continuation of the
31 waiver. If the program does not apply for a continuation of the time-limited waiver or the
32 continuation of the time-limited waiver is not granted by the Office of Children and Family
33 Services, the facility must resume compliance with the regulation or regulations for which the
34 waiver had been issued upon the expiration of the waiver.

35 (f) Failure to adhere to the terms of the waiver and to any alternative measures required
36 by the Office of Children and Family Services as a condition of granting the waiver will result in
37 recission of the waiver and may constitute sufficient cause for the Office of Children and Family
38 Services to limit, suspend, or revoke the license to operate an institution for which the waiver
39 was granted. The Office of Children and Family Services must notify the facility in writing of the

1 recission of a waiver, and the recission will become effective upon the receipt by the institution
2 of the written notification. The written notification of the recission may be communicated through
3 personal delivery, electronic mail, telefax or regular mail, at the discretion of the Office of
4 Children and Family Services.

5 22. A new section 442.26 is added to Part 442 of the Official Compilation of Codes,
6 Rules and Regulations of the State of New York is added to read as follows:

7 442.26. Certification for Specialized Programs to Serve Prenatal, Postpartum or
8 Parenting Youth.

9 (a) Any facility governed by this Part, including but not necessarily limited to a facility
10 governed by section 442.17 of this Part, may apply to the Office for certification for the program
11 as a specialized program to serve prenatal, postpartum or parenting youth. Such application
12 shall be in writing and shall be made in the time and manner as directed by the Office.

13 (b) At minimum, such application must:

14 (1) Demonstrate that the facility is in compliance with requirements of this Part and,
15 specifically, any requirement contained within this Part that applies to parenting a youth, a child
16 of a parenting youth, or a parenting youth and child of a parenting youth unit, as such terms are
17 defined in section 427.2 of this Title.

18 (2) Demonstrate requisite Office approval of manuals, policies and procedures for a
19 specialized program to serve pregnant, postpartum or parenting youth. Such materials include
20 but are not limited to:

21 (i) Policy and policy manuals required by section 441.4 of this Title;

22 (ii) Policies and procedures specific to the care and services that shall be provided to a
23 parenting youth, a child of a parenting youth, a parenting youth and a child of a parenting youth
24 unit, as such terms are defined in section 427.2 of this Title, and for youth who are pregnant or
25 postpartum, including but not limited to:

26 (a) Admission and intake procedures;

27 (b) Training for staff on topics related to the care and treatment of pregnant, postpartum
28 or parenting youth and the children of parenting youth, which may include, but not necessarily
29 be limited to:

30 (1) Child development;

31 (2) Care for postpartum youth;

32 (3) Youth and family engagement;

33 (4) Safety risks during pregnancy and for postpartum youth; and

1 (5) Safety risks for infants if the facility will provide care to any child of a parenting youth
2 that may be an infant;

3 (c) Staffing ratios;

4 (d) Proposed model of trauma-informed care;

5 (e) Promotion of cultural awareness, and competency regarding race, culture, gender,
6 sexual orientation and socioeconomic factors.

7 (f) Community engagement;

8 (g) Case planning and permanency services;

9 (h) Clinical and behavioral health services;

10 (i) Availability of medical services;

11 (j) Educational, vocational, training and independent living services; and

12 (k) Specific services and programing tailored to meet the needs of pregnant, postpartum,
13 parenting youth or the children of parenting youth; and

14 (3) Include any other information as may be required by the Office.

15 23. The opening clause of subparagraph (i) of paragraph (4) of subdivision (b) of
16 section 447.2 of the Official Compilation of Codes, Rules and Regulations of the State of New
17 York is amended to read as follows:

18 (i) An agency boarding home must be protected by carbon monoxide detectors as
19 defined in section 441.2 of this Title, and a fire detection system or a sprinkler system. Such
20 system must be designed, installed and maintained in accordance with [the New York State
21 Uniform Fire Prevention and Building Code] all applicable laws, ordinances, rules, regulations
22 and codes and shown on a diagram of the floor plan approved by the [department] Office of
23 Children and Family Services. A fire detection system must include the following:

24 24. Subparagraphs (vi) and (vii) of paragraph (4) of subdivision (b) of section 447.2 of
25 the Official Compilation of Codes, Rules and Regulations of the State of New York are amended
26 to read as follows:

27 (vi) All floors used by children including children of parenting youth must be separated
28 from each other by a smoke stop separation and have alternate means of egress remotely
29 located from each other and readily accessible to the children. An agency boarding home must
30 have a minimum of two means of egress from each floor. For a window opening to qualify as a
31 means of egress, it must be at least 30 inches in its smallest dimension with the bottom of the
32 window no higher than three feet six inches above the floor unless acceptable access is
33 provided by steps or furniture fixed in place. An upper level window, to qualify as a means of
34 egress, must also have a platform outside the window and a stair, permanently affixed to the
35 building, leading to ground level.

1 (vii) Children are not permitted above the second story in a building of type 5, wood
2 frame construction (that type of construction in which the walls, partitions, floors and roof are
3 wholly or partly of wood or other combustible materials). Children of limited mobility are not
4 permitted above the first story in a building of wood frame construction unless attended by a
5 member of the staff, or in the case of a parenting youth and child of a parenting youth unit as
6 defined in section 427.2 of this Title, unless the child of a parenting youth is attended by the
7 parenting youth or is otherwise appropriately supervised. A building of wood frame construction
8 occupied by children of limited mobility must be protected by a sprinkler system and the first
9 story must be accessible to children of limited mobility and accommodate the needs of such
10 children.

11 25. Subparagraph (xvi) of paragraph (4) of subdivision (b) of section 447.2 of the Official
12 Compilation of Codes, Rules and Regulations of the State of New York is amended to read as
13 follows:

14 (xvi) A minimum of one [non-coin operated, single-line] operable telephone must be
15 provided and must be accessible at all times, including accessible by any parenting youth, in
16 each building occupied by children. Emergency telephone numbers for fire, police and medical
17 assistance must be posted [on or adjacent to all telephones] conspicuously within the agency
18 operated boarding home.

19 26. Paragraphs (8)-(12) of subdivision (b) of section 447.2 of the Official Compilation of
20 Codes, Rules and Regulations of the State of New York are amended to read as follows:

21 (8) [Adequate bathing, toilet and lavatory facilities] Appropriate bathing and toileting
22 equipment specific to the age and developmental stages of the children, including any child of a
23 parenting youth served in the program, shall be provided, and shall be kept in safe and sanitary
24 condition.

25 (9) Each child and child of a parenting youth cared for shall have a separate bed or crib,
26 as applicable. Sleeping rooms shall provide at least 30 square feet of floor space for each bed,
27 and two feet of space between beds or cribs, as applicable. No more than three children shall
28 occupy any bedroom unless such children are part of a parenting youth and child of a parenting
29 youth unit, as such term is defined in section 427.2 of this Title and it has been determined to be
30 in the best interests of the parenting youth and the child of the parenting youth. Provided
31 however, that in order for a parenting youth and a child of the parenting youth to share a
32 sleeping room, safe sleep protocols must be followed and the sharing of a room by the
33 parenting youth and child of a parenting youth unit must not create a danger to the health and
34 safety of any of the occupants of the agency operated boarding home.

35 (10) Every sleeping room occupied by children and/or children of parenting youth shall
36 have good natural light and ventilation, and every sleeping room occupied by children shall have
37 one or more windows opening directly to the outside.

38 (11) No bed shall be located in any unfinished attic, basement, stair hall, closet or room
39 commonly used for other than bedroom purposes.

40 (12) Children of different [sex] genders above the age of four shall not sleep in the same
41 room unless:

1 (i) Such occupants of the room are siblings or would constitute a parenting youth and a
2 child of a parenting youth unit, as such term is defined in section 427.2 of this Title; and

3 (ii) It has been determined to be in the best interest of all children to share a sleeping
4 room age-appropriate safe sleep protocols are followed, and the sharing of the same sleeping
5 room does not create a danger to the health or safety of the occupants of the agency boarding
6 home.

7 27. Paragraph (1) of subdivision (d) of section 447.2 of the Official Compilation of
8 Codes, Rules and Regulations of the State of New York is amended to read as follows:

9 (1) No more than two children under 2 years of age shall be cared for in any agency
10 boarding home unless such children are children of parenting youth.

11 28. Part 447 of Title 18 of the Official Compilation of Codes, Rules and Regulations of
12 the State of New York is amended to add a new section 447.10 to read as follows:

13 447.10 Certification for Specialized Programs to Serve Prenatal, Postpartum or
14 Parenting Youth.

15 (a) Any facility governed by this Part may apply to the Office of Children and Family
16 Services for certification for the program as a specialized program to serve prenatal, postpartum
17 or parenting youth. Such application shall be in writing and shall be made in the time and
18 manner as directed by the Office of Children and Family Services.

19 (b) At minimum, such application must:

20 (1) Demonstrate that the facility is in compliance with requirements of this Part and,
21 specifically, any requirement contained within this Part that applies to parenting a youth, a child
22 of a parenting youth, or a parenting youth and child of a parenting youth unit, as such terms are
23 defined in section 427.2 of this Title.

24 (2) Demonstrate requisite Office of Children and Family Services approval of manuals,
25 policies and procedures for a specialized program to serve pregnant, postpartum or parenting
26 youth. Such materials include but are not limited to:

27 (i) Policy and policy manuals required by section 441.4 of this Title;

28 (ii) Policies and procedures specific to the care and services that shall be provided to a
29 parenting youth, a child of a parenting youth, a parenting youth and a child of a parenting youth
30 unit, as such terms are defined in section 427.2 of this Title, and for youth who are pregnant or
31 postpartum, including but not limited to:

32 (a) Admission and intake procedures;

33 (b) Training for staff on topics related to the care and treatment of pregnant, postpartum
34 or parenting youth and the children of parenting youth, which may include, but not be limited to:

35 (1) Child development;

1 (2) Care for postpartum youth;

2 (3) Youth and family engagement;

3 (4) Safety risks during pregnancy and for postpartum youth; and

4 (5) Safety risks for infants if the facility will provide care to any child of a parenting youth
5 that may be an infant.

6 (c) Staffing ratios

7 (d) Proposed model of trauma-informed care;

8 (e) Promotion of cultural awareness, and competency regarding race, culture, gender,
9 sexual orientation and socioeconomic factors;

10 (f) Community engagement;

11 (g) Case planning and permanency services;

12 (h) Clinical and behavioral health services;

13 (i) Availability of medical services;

14 (j) Educational, vocational, training and independent living services; and

15 (k) Specific services and programing tailored to meet the needs of pregnant,
16 postpartum, parenting youth or the children of parenting youth; and

17 (3) Include any other information as may be required by the Office of Children and
18 Family Services.

19 29. Part 447 of Title 18 of the Official Compilation of Codes, Rules and Regulations of
20 the State of New York is amended to add a new section 447.11 to read as follows:

21 447.11 Waivers

22 (a) Any provision of other Parts of this Title notwithstanding, a written waiver of one or
23 more of the non-statutory requirements of this of this Part may be issued by the Office of
24 Children and Family Services to an applicant for, or the holder of, a license or an operating
25 certificate from the Office of Children and Family Services to operate a program or facility
26 pursuant to this Part. Provided however, that no program or facility may apply for a waiver for
27 any requirements for non-discrimination. A waiver pursuant to this section may be issued at the
28 time of application for a license or operating certificate to become a program or facility pursuant
29 to this Title. A program or facility which applies for a waiver subsequent to the issuance of a
30 license or operating certificate, must operate in full compliance with the regulations at all times
31 prior to the issuance of a waiver.

1 (b) An applicant for, or holder of, a license or certificate to operate a program or facility
2 pursuant to this Part must submit to the office, in writing, any request for a waiver pursuant to
3 this section. The Office of Children and Family Services may prescribe a form to be used for
4 waiver requests. The application for a waiver must include:

5 (1) The specific regulation or regulations for which a waiver is sought;

6 (2) The reason a waiver is necessary; and

7 (3) A description of what will be done to achieve or maintain the intended purpose of the
8 regulation or regulations for which a waiver is sought and to protect the health, safety and
9 welfare of the youth in the program or facility.

10 (c) The Office of Children and Family Services may require the applicant for, or holder
11 of, a license or operating certificate to make physical plant modifications, and/or to adopt special
12 methods, procedures, and/or policies to protect the health, safety and welfare of youth as a
13 condition of granting and maintaining a waiver granted pursuant to this section.

14 (d) Written approval of a request for a waiver will be granted only pursuant to a
15 determination by the Office of Children and Family Services that the proposed waiver will not
16 adversely affect the health, safety or welfare of the youth in the program or facility and that the
17 intended purpose of the regulation or regulations to be waived will be met.

18 (e) Waivers may be time limited, at the discretion of the Office of Children and Family
19 Services. Where a waiver is time limited, the program or facility may apply for a continuation of
20 the waiver. If the program or facility does not apply for a continuation of the time-limited waiver
21 or the continuation of the time-limited waiver is not granted by the Office of Children and Family
22 Services, the program or facility must resume compliance with the regulation or regulations for
23 which the waiver had been issued upon the expiration of the waiver.

24 (f) Failure to adhere to the terms of the waiver and to any alternative measures required
25 by the Office of Children and Family Services as a condition of granting the waiver will result in
26 recission of the waiver and may constitute sufficient cause for the Office of Children and Family
27 Services to limit, suspend, or revoke the license or operating certificate of the program or facility
28 for which the waiver was granted. The Office of Children and Family Services must notify the
29 facility or program in writing of the recission of a waiver, and the recission will become effective
30 upon the receipt by the program of the written notification. The written notification of the
31 recission may be communicated through personal delivery, electronic mail, telefax or regular
32 mail, at the discretion of the Office of Children and Family Services.

33 30. Paragraph (4) of subdivision (b) of section 448.3 of the Official Compilation of
34 Codes, Rules and Regulations of the State of New York is amended to read as follows:

35 (4) Provision for a staff member to be in attendance to care for every four children of
36 parenting youth who are infants under two years of age in a facility caring for [mothers and their
37 children when the mothers are] parenting youth and children of parenting youth when the
38 parenting youth is placed out of the home.

1 31. Subparagraphs (i) – (vi) of paragraph (4) of subdivision (d) of section 448.3 of the
2 Official Compilation of Codes, Rules and Regulations of the State of New York are amended to
3 read as follows:

4 (i) Every sleeping room occupied by children and/or children of parenting youth shall
5 have good natural light and ventilation, and shall have one or more windows opening directly to
6 the exterior.

7 (ii) Separate and accessible drawer space for personal belongings and sufficient closet
8 space for indoor and outdoor clothing shall be available for each child and each child of a
9 parenting youth.

10 (iii) No bed shall be located in any unfinished attic, basement, stair hall, closet, or room
11 commonly used for other than bedroom purposes.

12 (iv) Except for [mothers and their children] parenting youth and any child of a parenting
13 youth, children of different [sexes] genders over the age of five shall not sleep in the same room
14 unless such children are siblings, and unless it has been determined to be in the best interest of
15 the children who are either part of a parenting youth and a child of a parenting youth unit, as
16 such term is defined in section 427.2 of this Title or part of a sibling group. Where children of
17 different genders occupy the same sleeping room in accordance with this subparagraph, they
18 must have separate sleeping accommodations appropriate to their age and developmental
19 stage, and consistent with safe sleep protocols.

20 (v) [All single sleeping rooms for children] The minimum floor area of a single sleeping
21 room occupied by a child, including a parenting youth shall contain not less than 80 square feet
22 of floor area and a minimum horizontal dimension of seven feet, and for a child of a parenting
23 youth, not less than 40 square feet.

24 (vi) [All sleeping rooms for the accommodation of more than one child] The minimum
25 floor area of a multiple sleeping room for children, including children of parenting youth, shall
26 contain not less than 60 square feet of floor area per child and a minimum horizontal dimension
27 of eight feet per child, or parenting youth, and for a child of a parenting youth.

28 (a) No more than three children shall occupy any bedroom unless such children are a
29 parenting youth and a child of a parenting youth, and there is sufficient space in the bedroom to
30 allow for such arrangement.

31 (b) Each child and child of a parenting youth shall have a separate bed or crib,
32 consistent with their age and developmental stage, spaced at least two feet apart from other
33 beds or cribs. Any crib provided must conform to safe sleep protocols.

34 32. Subparagraphs (iii) and (iv) of paragraph (5) of subdivision (d) of section 448.3 of
35 the Official Compilation of Codes, Rules and Regulations of the State of New York are amended
36 and a new subparagraph (v) is added to read as follows:

37 (iii) be provided with [his] their own towel, washcloth, tooth brush and comb; [and]

1 (iv) Appropriate bathing and toileting equipment specific to the ages and developmental
2 stages of the children, parenting youth and any child of a parenting youth served by the facility
3 must be provided and shall be kept in safe and sanitary condition; and

4 (v) separate staff lavatory and toilet facilities.

5 33. Paragraph (7) of subdivision (f) of section 448.3 of the Official Compilation of Codes,
6 Rules and Regulations of the State of New York is amended to read as follows:

7 (7) During a period of one month following the birth of [her] their child, no mother in a
8 facility caring for [mothers and their children] a parenting youth and a child of a parenting youth,
9 as such term is defined in section 427.2 of this Title, may engage in work, work training, school,
10 or any other program which requires [her] them to be away from the group home, without written
11 approval from a physician.

12 34. Subdivision (j) of section 448.3 of the Official Compilation of Codes, Rules and
13 Regulations of the State of New York is amended to read as follows:

14 (j) Children under five years of age—special provisions. [A]

15 (1) An agency must not accept any child under five 5 years [who is] of age in a group
16 home unless:

17 (i) the child is a sibling of another child over such age who is a resident in the group
18 home[, may be cared for in such facility, provided: (1)]; or

19 (ii) the child is part of a parenting youth and child of a parenting youth unit, as such term
20 is defined in section 427.2 of this Title, and both the parenting youth and the child of the
21 parenting youth would be residents of the group home, and the group home has been approved
22 by the Office of Children and Family Services;

23 (2) For each child under the age of five there shall be provided:

24 (i) Separate sleeping accommodations appropriate to their age and developmental stage
25 and in accordance with safe sleep protocols, provided further that a crib [is] shall be provided for
26 [such a child] any children under two years of age.

27 [(2)] (ii) Highchairs or tables and chairs suitable to the size of the children under five
28 years of age in care shall be provided at feeding time.

29 (iii) Safe and developmentally appropriate equipment including educational items and
30 toys.

31 (3) An agency must not accept any child under five years of age in a group home in
32 accordance with this subdivision unless it has notified the [department] Office of Children and
33 Family Services of its intent to care for such child and the plan of care thereof and it has
34 received a written statement from the [department] Office of Children and Family Services that
35 its program and facilities for the care of such child are in compliance with the rules of the
36 department.

1 35. Subdivision (c) of section 448.9 of the Official Compilation of Codes, Rules and
2 Regulations of the State of New York is amended to read as follows:

3 (c) Additional safety precautions will be taken for children including any child of a
4 parenting youth with special [problems, including handicapping] needs or medical conditions
5 that may inhibit their ability to participate in recreational activities, who are cared for in a group
6 home.

7 36. Part 448 of Title 18 of the Official Compilation of Codes, Rules and Regulations of
8 the State of New York is amended to add a new section 448.11 to read as follows:

9 448.11 Certification for Specialized Programs to Serve Prenatal, Postpartum or
10 Parenting Youth.

11 (a) Any facility governed by this Part may apply to the Office of Children and Family
12 Services for certification for the program as a specialized program to serve prenatal, postpartum
13 or parenting youth. Such application shall be in writing and shall be made in the time and
14 manner as directed by the Office of Children and Family Services.

15 (b) At minimum, such application must:

16 (1) Demonstrate that the facility is in compliance with requirements of this Part and,
17 specifically, any requirement contained within this Part that applies to parenting a youth, a child
18 of a parenting youth, or a parenting youth and child of a parenting youth unit, as such terms are
19 defined in section 427.2 of this Title.

20 (2) Demonstrate requisite Office of Children and Family Services approval of manuals,
21 policies and procedures for a specialized program to serve pregnant, postpartum or parenting
22 youth. Such materials include but are not limited to:

23 (i) Policy and policy manuals required by section 441.4 of this Title;

24 (ii) Policies and procedures specific to the care and services that shall be provided to a
25 parenting youth, a child of a parenting youth, a parenting youth and a child of a parenting youth
26 unit, as such terms are defined in section 427.2 of this Title, and for youth who are pregnant or
27 postpartum, including but not limited to:

28 (a) Admission and intake procedures;

29 (b) Training for staff on topics related to the care and treatment of pregnant, postpartum
30 or parenting youth and the children of parenting youth, which may include, but not be limited to:

31 (1) Child development;

32 (2) Care for postpartum youth;

33 (3) Youth and family engagement;

34 (4) Safety risks during pregnancy and for postpartum youth; and

1 (5) Safety risks for infants if the facility will provide care to any child of a parenting youth
2 that may be an infant; and

3 (c) Staffing ratios;

4 (d) Proposed model of trauma-informed care;

5 (e) Promotion of cultural awareness, and competency regarding race, culture, gender,
6 sexual orientation and socioeconomic factors;

7 (f) Community engagement;

8 (g) Case planning and permanency services;

9 (h) Clinical and behavioral health services;

10 (i) Availability of medical services;

11 (j) Educational, vocational, training and independent living services; and

12 (k) Specific services and programing tailored to meet the needs of pregnant, postpartum,
13 parenting youth or the children of parenting youth; and

14 (3) Include any other information as may be required by the Office of Children and
15 Family Services.

16 37. Part 448 of Title 18 of the Official Compilation of Codes, Rules and Regulations of
17 the State of New York is amended to add a new section_448.12 to read as follows:

18 448.12 Waivers.

19 (a) Any provision of other Parts of this Title notwithstanding, a written waiver of one or
20 more of the non-statutory requirements of this of this Part may be issued be the Office to an
21 applicant for, or the holder of, a license or an operating certificate from the Office to operate a
22 program or facility pursuant to this Part. Provided however, that no program or facility may
23 apply for a waiver regarding any requirements regarding non-discrimination. The waiver
24 pursuant to this section may be issued at the time of application for a license or operating
25 certificate to become a program or facility pursuant to this Title. A program or facility which
26 applies for a waiver subsequent to the issuance of a license or operating certificate, must
27 operate in full compliance with the regulations at all times prior to the issuance of a waiver.

28 (b) An applicant for, or holder of, a license or certificate to operate a program or facility
29 pursuant to this Part must submit to the office, in writing, any request for a waiver pursuant to
30 this section. The Office may prescribe a form to be used for waiver requests. The application for
31 a waiver must include:

32 (1) The specific regulation or regulations for which a waiver is sought;

33 (2) The reason a waiver is necessary; and

1 (3) A description of what will be done to achieve or maintain the intended purpose of the
2 regulation or regulations for which a waiver is sought and to protect the health, safety and
3 welfare of the youth in the program or facility.

4 (c) The Office may require the applicant for, or holder of, a license or operating
5 certificate to make physical plant modifications, and/or to adopt special methods, procedures,
6 and/or policies to protect the health, safety and welfare of youth as a condition of granting and
7 maintaining a waiver granted pursuant to this section.

8 (d) Written approval of a request for a waiver will be granted only pursuant to a
9 determination by the Office that the proposed waiver will not adversely affect the health, safety
10 or welfare of the youth in the program or facility and that the intended purpose of the regulation
11 or regulations to be waived will be met.

12 (e) Waivers may be time limited, at the discretion of the Office. Where a waiver is time
13 limited, the program or facility may apply for a continuation of the waiver. If the program or
14 facility does not apply for a continuation of the time-limited waiver or the continuation of the
15 time-limited waiver is not granted by the Office, the program or facility must resume compliance
16 with the regulation or regulations for which the waiver had been issued upon the expiration of
17 the waiver.

18 (f) Failure to adhere to the terms of the waiver and to any alternative measures required
19 by the Office as a condition of granting the waiver will result in rescission of the waiver and may
20 constitute sufficient cause for the Office to limit, suspend, or revoke the license or
21 operating certificate of the program or facility for which the waiver was granted. The Office must
22 notify the facility or program in writing of the rescission of a waiver, and the rescission will become
23 effective upon the receipt by the program of the written notification. The written notification of
24 the rescission may be communicated through personal delivery, electronic mail, telefax or regular
25 mail, at the discretion of the Office.

26 38. The title of Part 449 of Title of the Official Compilation of Codes, Rules and
27 Regulations of the State of New York is amended to read as follows:

28 Part 449 Supervised [Independent Living Programs] Settings.

29 39. Subdivision (c) – (h) of section 449.1 of the Official Compilation of Codes, Rules and
30 Regulations of the State of New York are amended and new subdivisions (i) and (j) are added to
31 read as follows:

32 (c) *Supervised setting* means, in accordance with section 371 of the Social Services
33 Law, a residential placement in the community approved and supervised by an authorized
34 agency in accordance with this Part to provide a transitional experience for older youth in which
35 such youth may live independently. A supervised setting includes, but is not limited to,
36 placement in a supervised independent living program as defined in this section, college
37 housing, shared housing with non-foster care youth and room rentals.

38 (d) *Supervised setting program authorization* means written approval issued by OCFS to
39 an authorized agency for the operation and approval of supervised settings.

1 (e) *Supervised independent living program authorization* means written approval issued
2 by OCFS to an authorized agency in accordance with this Part for the operation of a supervised
3 independent living program.

4 [(d)] (f) *Supervised independent living program* means one or more of a type of agency-
5 operated boarding home operated and certified by an authorized agency in accordance with this
6 Part to provide a transitional experience for older youth who, based upon their circumstances,
7 are appropriate for transition to the level of care and supervision provided in the program.

8 [(e)] (g) *Supervised independent living unit* means a home or apartment certified in
9 accordance with the standards set forth in this Part by an authorized agency approved by OCFS
10 to operate a supervised independent living program for the care of up to four youth including
11 their children. Each supervised independent living unit must be located in the community
12 separate from any of the authorized agency's other congregate dwellings.

13 [(f)] (h) *Supervised independent living program certification* means a certificate issued by
14 an authorized agency approved to operate a supervised independent living program for the
15 operation of a supervised independent living unit. Such certification is non-transferable and is
16 effective for a one year period.

17 [(g)] (i) *Youth* means a child or young adult in the care and custody or the custody and
18 guardianship of the commissioner of a local department of social services or OCFS.

19 [(h)] (j) *Adult permanency resource* means a caring committed adult who has been
20 determined by a social services district to be an appropriate and acceptable resource for a
21 youth and is committed to providing emotional support, [advise] advice and guidance to the
22 youth and to assist the youth as the youth makes the transition from foster care to responsible
23 adulthood.

24 40. Section 449.2 of Title of the Official Compilation of Codes, Rules and Regulations of
25 the State of New York is amended to read as follows:

26 449.2 Conditions for application and approval of a supervised [independent living] setting
27 program.

28 (a) An authorized agency may not operate a supervised [independent living] setting
29 program until it [received] receives the written approval of OCFS.

30 (b) An authorized agency desiring to operate a supervised [independent living] setting
31 program must apply to OCFS for authorization to operate such a program in a manner as
32 required by OCFS. Such application must include:

33 (1) a description of the need for the program and a list of the social services districts
34 interested in using the program, [including letters of support from all districts that intend to use
35 the proposed program];

36 (2) a description of the services that will be provided, including a plan setting forth how
37 the services will be provided;

1 (3) the population to be served;

2 (4) proposed staffing, including the proposed staff to youth ratio for the program and the
3 procedures for obtaining background checks on prospective employees, volunteers or
4 consultants;

5 (5) a description of how [units] settings will be located and [certified] approved or
6 certified;

7 (6) a certification that all supervised [independent living units] settings will be operated in
8 compliance with this Part; and

9 (7) any other information required by OCFS.

10 (c) A review to determine the applicant's compliance with OCFS requirements will be
11 conducted by OCFS after the receipt of the application and all required supporting
12 documentation.

13 (d) A notice of approval or denial of the application will be issued by OCFS after the
14 completion of the review [and, if],

15 (1) If the application is approved, a letter of approval will be issued by OCFS to the
16 applicant. [(e)]

17 (2) If an application is denied, OCFS will give written notice of the denial to the
18 applicant, informing the applicant of the reasons therefore and of the applicant's right to request
19 a hearing before a hearing officer designated by OCFS in accordance with the procedures set
20 forth in Part 343 of this Title. [(f)] The applicant's request for a hearing to review the denial of an
21 application for an operating certificate must be made within 60 days after written notice of
22 denial. [(g) the supervised independent living program and each independent living unit]

23 (e) Supervised settings are subject to the inspection, supervision and enforcement
24 powers of OCFS, as set forth in Article 7 of the Social Services Law.

25 41. Section 449.3 of Title of the Official Compilation of Codes, Rules and Regulations of
26 the State of New York is amended to read as follows:

27 449.3 Conditions for operation of a supervised [independent living program] setting
28 program by an authorized agency.

29 (a) After receiving approval to operate a supervised [independent living] setting program
30 from OCFS, the authorized agency may operate a program and certify or approve supervised
31 [independent living units] settings for occupancy by youth at the sites for which the authorized
32 agency has issued supervised [independent living program] setting certifications or approvals.

33 (b) An authorized agency may only issue supervised [independent living program]
34 setting certifications or approvals for sites that are in compliance with the requirements of this
35 Part.

1 (c) [An authorized agency operating an approved supervised independent living program
2 must notify OCFS of the certification, renewal and/or closure of each supervised independent
3 living unit. Such notification must be made by the authorized agency within 10 days of such
4 certification, renewal or closure in the form and manner as required by OCFS.] Prior to
5 placement in a supervised setting, with the exception of college-owned housing, the authorized
6 agency operating the supervised setting program must perform a readiness assessment for the
7 youth. Such readiness assessment must be in a form and manner prescribed by OCFS and
8 must determine that the placement in the supervised setting is appropriate based on the needs
9 of the individual youth.

10 (d) The authorized agency is responsible for the inspection, monitoring and/or
11 supervision, as applicable, of all the supervised [independent living units operated] settings
12 certified or approved by the authorized agency.

13 (e) [A professionally trained caseworker, a person with experience in child welfare, or a
14 person holding a master's degree in a related field who is in the employ of the authorized
15 agency must supervise the supervised independent living program.

16 (f) The person designated to supervise the program must make the determination as to
17 the youth to be placed in each supervised independent living unit, or such determination may be
18 made by an interdisciplinary team when it is the general practice of the authorized agency to
19 use such teams to make placement decisions.

20 (g) Adequate staffing must be maintained to provide services, visits, and supervision.
21 The supervision of youth participating in a supervised independent living program must be
22 performed by designated staff member(s) of the authorized agency who are qualified to perform
23 such function; staff member(s) so designated must visit and consult with each youth at the
24 supervised independent living unit at least twice per week. At least one visit per week must be
25 held outside of standard business hours. An increased number of visits are required, when
26 necessary, to address the individual health and safety needs of the residents of the supervised
27 independent living unit. Visits conducted pursuant to this subdivision may satisfy the casework
28 contact requirements of section 441.21(c) of this Title to the extent that visits are made by the
29 child's case planner or caseworker assigned to the child by the case planner.(h)] The authorized
30 agency must re-evaluate and renew the certification or approval of each supervised
31 [independent living unit] setting on an annual basis using standards contained in this Part. This
32 evaluation must be documented in the authorized agency's record.[(i)]

33 (h) Reimbursement for certified or approved supervised [independent living units]
34 settings will be provided on a basis and in a manner as determined by OCFS. [(j)]

35 (i) An authorized agency operating a supervised [independent living program] setting
36 program must submit fiscal and program data to OCFS in accordance with the provisions of Part
37 427 of this Title.

38 (j) In addition to the requirements for casework contacts contained in section 441.21 of
39 this Title, staff must visit or communicate with each youth placed in a supervised setting no less
40 than once per week and in the case of a supervised independent living unit, no less than twice a
41 week. Unless otherwise required by federal or state law, staff must visit or communicate with
42 each youth placed in a supervised setting other than a supervised independent living unit at
43 least once per week for the first 30 days from placement in such unit. After 30 days, such

1 weekly contacts may occur at a reasonable frequency, as deemed appropriate, to meet the
2 individual needs of the youth and provide necessary supervision and supports.

3 (k) Supervised setting must be in compliance with all applicable provisions of state and
4 local laws, ordinances, rules and regulations concerning health, safety and nondiscrimination.

5 (l) In addition to the conditions set forth above, the following conditions apply solely to
6 supervised independent living programs:

7 (1) An authorized agency operating an approved supervised independent living program
8 must notify OCFS of the certification, renewal and/or closure of each supervised independent
9 living unit. Such notification must be made by the authorized agency within 10 days of such
10 certification, renewal or closure in the form and manner as required by OCFS.

11 (2) A professionally trained caseworker, a person with experience in child welfare, or a
12 person holding a master's degree in a related field who is in the employ of the authorized
13 agency must supervise the supervised independent living program.

14 (3) The person designated to supervise the program must make the determination as to
15 the youth to be placed in each supervised independent living unit, or such determination may be
16 made by an interdisciplinary team when it is the general practice of the authorized agency to
17 use such teams to make placement decisions.

18 (4) Adequate staffing must be maintained to provide services, visits, and supervision.
19 The supervision of youth participating in a supervised independent living program must be
20 performed by designated staff member(s) of the authorized agency who are qualified to perform
21 such function; staff member(s) so designated must visit and consult with each youth at the
22 supervised independent living unit at least twice per week. At least one visit per week must be
23 held outside of standard business hours. An increased number of visits are required, when
24 necessary, to address the individual health and safety needs of the residents of the supervised
25 independent living unit. Visits conducted pursuant to this subdivision may satisfy the casework
26 contact requirements of section 441.21(c) of this Title to the [extend] extent that visits are made
27 by the youth's case planner or caseworker assigned to the youth by the case planner.

28 42. The title of section 449.4 of the Official the Official Compilation of Codes, Rules and
29 Regulations of the State of New York is amended to read as follows:

30 449.4 Requirements for each supervised [independent living unit] setting.

31 43. The opening clause and subparagraph (i) of paragraph (1) of subdivision (a) of
32 section 449.4 of the Official the Official Compilation of Codes, Rules and Regulations of the
33 State of New York is amended to read as follows:

34 (a) Personnel

35 (1) Each authorized agency operating a supervised [independent living] setting program
36 must establish a procedure to review and evaluate the backgrounds of and information supplied
37 by all applicants for employee, volunteer or consultant positions in the supervised [independent
38 living] setting program. This procedure must take into account any appropriate collective

1 bargaining agreement(s), and in the case of a supervised independent living program operated
2 by a social services official, must also comply with applicable provisions of the Civil Service
3 Law. As part of this procedure, each employee, volunteer, or consultant applicant must submit
4 all of the following information:

5 (i) a statement or summary of the applicant's employment history, including, but not
6 limited to, any relevant child-caring experience, any experience working with transition age
7 youth with histories of trauma, incarceration, homelessness or foster care, and any of the
8 applicant's own lived experience in foster care that they wish to voluntarily disclose on such
9 statement;

10 44. Paragraphs (2) and (3) of subdivision (a) of section 449.4 of the Official the Official
11 Compilation of Codes, Rules and Regulations of the State of New York are amended to read as
12 follows:

13 (2) Persons [caring] providing supervision and support for youth must be in good
14 physical and mental health, and free from any communicable disease infection, must be shown
15 by a certificate from a physician at the time of initial employment and annually thereafter.

16 (3) If an applicant discloses in the sworn statement furnished in accordance with
17 subparagraph (1)(iv) of this subdivision that he or she has been convicted of a crime, the
18 authorized agency operating the supervised [independent living] setting program must
19 determine, in accordance with guidelines developed and disseminated by OCFS, whether to
20 hire the applicant or to use the volunteer or consultant. If the authorized agency determines it
21 will hire the applicant or use the applicant as a volunteer or consultant, the authorized agency
22 must maintain a written record, as part of the application file or employment or other personnel
23 record of such person, of the reason(s) why such person was determined to be appropriate and
24 acceptable as an employee, volunteer or consultant.

25 45. The opening clause of subparagraph (i) of paragraph (4) of subdivision (a) of section
26 449.4 of the Official the Official Compilation of Codes, Rules and Regulations of the State of
27 New York is amended to read as follows

28 (i) With regard to any person who is actively being considered for employment, or to any
29 individual or any person who is employed by an individual, corporation, partnership or
30 association which provides goods or services to the authorized agency₁. The] the authorized
31 agency operating the supervised [independent living] setting program must inquire of OCFS
32 whether any such person is the subject of an indicated report of child abuse or maltreatment on
33 file with the Statewide Central Register of Child Abuse and Maltreatment. In addition, the
34 authorized agency may inquire whether any current employee or any person who is being
35 considered for use as a volunteer or for hiring as a consultant with youth who are being cared
36 for by the supervised setting [independent living] program is the subject of an indicated report of
37 child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and
38 Maltreatment. An inquiry regarding any current employee may be made only once in any six-
39 month period.

40 46. Subparagraph (v) and the opening clause of subparagraph (vi) of paragraph (4) of
41 subdivision (a) of section 449.4 of the Official the Official Compilation of Codes, Rules and
42 Regulations of the State of New York are amended to read as follows:

1 (v) If the applicant, employee or other person about whom the authorized agency has
2 made an inquiry is found to be the subject of an indicated report of child abuse or maltreatment,
3 the authorized agency must determine, on the basis of information it has available and in
4 accordance with guidelines developed and disseminated by OCFS, whether to hire, retain or
5 use the person as an employee, volunteer or consultant, or to permit the person providing
6 goods or services to have access to youth being cared for by the authorized agency. Whenever
7 such person is hired, retained, used or given access to youth, the authorized agency must
8 maintain a written record, as part of the application file or employment or other personnel record
9 of such person, of the specific reason(s) why such person was determined to be appropriate
10 and acceptable as an employee, volunteer, consultant, or provider of goods or services with
11 access to youth being cared for by the supervised [independent living] setting program.

12 (vi) If the authorized agency denies employment or makes a decision not to retain an
13 employee, not to use a volunteer, not to hire a consultant, or not to permit a person providing
14 goods or services to have access to youth being cared for by the supervised [independent
15 living] setting program, the authorized agency must provide a written statement to the applicant,
16 employee, volunteer or consultant or other person indicating whether the denial or decision was
17 based in whole or in part on the existence of the indicated report and, if so, reasons for the
18 denial or decision. If the denial or decision was based in whole or in part on such indicated
19 report, the statement must also include written notification, in the form prescribed by OCFS to
20 the applicant, employee, volunteer, consultant or other person that:

21 47. Subparagraph (iii) of paragraph (5) of subdivision (a) of section 449.4 of the Official
22 the Official Compilation of Codes, Rules and Regulations of the State of New York is amended
23 to read as follows:

24 (iii) Each program under this section is required by section 553 of the Executive Law,
25 and subdivision 1 of section 378-a of the Social Services Law, to obtain criminal history
26 background checks for certain prospective employees, [or] volunteers[who will have the
27 potential for substantial, unsupervised or unrestricted physical contact with children or
28 vulnerable persons] or consultants through the Justice Center as authorized by article 20 of the
29 Executive Law.

30 48. Subdivisions (b), (c) and (d) of section 449.4 of the Official the Official Compilation
31 of Codes, Rules and Regulations of the State of New York are amended to read as follows:

32 (b) Physical facility requirements for supervised setting, except for college-owned
33 housing

34 (1) A safety checklist in a form and format prescribed by OCFS must be completed with
35 the youth prior to initial placement in any supervised setting, with the exception of a setting
36 classified as college-owned housing, and prior to any change in placement to another
37 supervised setting, or at least annually thereafter.

38 (2) A supervised [independent living unit] setting must be in an appropriate
39 neighborhood and so located that it [is readily accessible] allows access to necessary services
40 and adequate transportation.

1 [(2)] (3) A supervised [independent living unit] setting must be of sufficient size to provide
2 proper accommodations for the youth placed in the [unit] setting and in compliance with all
3 applicable state and local ordinances, rules, regulations and codes.

4 [(3)] (4) A supervised [independent living unit] setting must be kept in clean and sanitary
5 condition and in good repair, and must provide for the reasonable comfort and wellbeing of the
6 youth.

7 [(4)] (5) A supervised [independent living unit] setting must be [protected by a fire
8 detection system, a sprinkler system, as those terms are defined in section 441.2 of this Title,
9 or] in compliance with all applicable state and local ordinances, rules, regulations and codes,
10 including having a smoke detection system or individual smoke detectors and individual carbon
11 monoxide detectors as required by applicable local codes and the New York State Uniform Fire
12 Prevention and Building Code.

13 (i) Buildings used in whole or in part as a supervised [independent living unit] setting
14 must comply with all applicable laws, ordinances, rules, regulations and codes relating to
15 buildings, fire protection, health and safety.

16 (a) In addition to the above, the following requirements also apply if the supervised
17 setting is a supervised independent living unit:

18 [(ii)] (1) All areas of fire hazard in the supervised independent living unit must be
19 protected by a sprinkler system or fire detection system, as those terms are defined in section
20 441.2 of this Title. Areas of fire hazard must be separated from other areas by construction
21 having a fire resistance rating of at least one hour. An area of fire hazard means a heating
22 equipment room; a woodworking shop; a paint shop; a storeroom for mattresses, furniture,
23 paints and/or other combustible or flammable materials or liquids; and any other space or room
24 exceeding 100 square feet in floor area where other combustible or flammable materials are
25 regularly stored.

26 [(iii)] (2) Other than quantities of flammable materials necessary for the operation and
27 maintenance of the supervised independent living unit, which must be kept in closed containers
28 in storage cabinets, and fuel oil, which must be kept in oil storage tanks, flammable materials
29 must not be stored in the supervised independent living unit.

30 [(iv)] (ii) All fire protection systems and equipment must be designed, installed and
31 maintained in accordance with the New York State Uniform Fire Prevention and Building Code.
32 All fire protection systems and equipment must be inspected according to local and New York
33 State building codes. A written report of such inspections must be kept on file by the authorized
34 agency. All identified defects in systems or equipment must be corrected and re-inspected
35 immediately. This inspection requirement does not apply to supervised settings that are located
36 in private, owner-occupied buildings or college owned housing.

37 [(v)](iii) A supervised [independent living unit] setting must be free from all conditions that
38 constitute a hazard to the life, health or safety of any person. The following are prohibited:

39 (a) portable electric space heaters or self-contained fuel-burning space heaters, unless
40 specifically permitted by the authorized agency and plugged into a grounded outlet

- 1 (b) solid-fuel-burning, free-standing stoves, except where approved in writing by the
2 authorized agency;
- 3 (c) use of fuel-burning or electric "hot plates";
- 4 (d) illegal connections for gas appliances;
- 5 (e) combustible or flammable containers for ashes;
- 6 (f) the accumulation of combustible or flammable materials in any part of the unit;
- 7 (g) damaged equipment, furnishings or physical plant, when their condition makes them
8 unsafe for normal use
- 9 (h) broken plumbing or stopped sewers that are not promptly repaired;
- 10 (i) [exposed steam pipes, heating pipes and radiators and unenclosed heating plants
11 and equipment with which youth may come in contact;
- 12 (j) use of materials containing asbestos in any construction, renovation or repair of any
13 supervised independent living program where such construction, renovation or repair occurs on
14 or after July 1, 1993;
- 15 (k) any furniture, toys or construction containing lead-based paint;
- 16 (l) any lead paint hazard or paint condition conducive to lead poisoning, as such term is defined
17 in 10 NYCRR 67.1. Any building used in whole or in part as a supervised independent living unit
18 occupied by a child six years of age or younger must be inspected to determine if it presents
19 such hazard. The authorized agency must request the local health department to perform such
20 inspection and is responsible for correcting any hazard called to its attention as a result of such
21 inspection. In the event that such request for inspection is rejected by the local health
22 department, the authorized agency must notify OCFS immediately;
- 23 [(m)] (j) extension cords, unless approved in writing by the authorized agency; and
- 24 [(n)] (k) any other condition deemed hazardous by OCFS or the authorized agency
- 25 (l) In addition to the above, the following items are additionally prohibited if the
26 supervised setting is a supervised independent living unit:
- 27 (1) exposed steam pipes, heating pipes and radiators and unenclosed heating plants
28 and equipment with which youth may come in contact;
- 29 (2) use of materials containing asbestos in any construction, renovation or repair of any
30 supervised independent living program where such construction, renovation or repair occurred
31 on or after July 1, 1993;
- 32 (3) any furniture, toys, or construction containing lead-based paint in any supervised
33 independent living unit in which the youth lives with their child.

1 [(vi)] (iv) Fire extinguishers must be provided in each supervised [independent living unit]
2 setting and maintained in accordance with the New York State Uniform Fire Prevention and
3 Building Code. Additionally, if the supervised setting is a supervised independent living unit the
4 fire extinguishers must be wall mounted between two feet and four-and-one-half feet above the
5 floor; all staff members and youth must be instructed in the proper operation of extinguishers;
6 and in each unit there must be a minimum of one fire extinguisher on each floor and,
7 additionally, one in the kitchen, one in the laundry room and one outside any heating equipment
8 room. [(vii)]

9 (v) A supervised [independent living unit] setting must have a minimum of two means of
10 egress from the unit's floor that are readily accessible to the youth. For a window opening to
11 qualify as a means of egress, it must be in compliance with all applicable state and local
12 ordinances, rules, regulations and codes. A fully sprinklered building does not require a second
13 means of egress. In addition, if the supervised setting is a supervised independent living unit, for
14 the window opening to qualify as a means of egress, it must be at least 24 inches high and 20
15 inches wide with the bottom of the window no higher than three feet eight inches above the floor
16 unless acceptable access is provided by steps or furniture fixed in place. An upper level
17 window, to qualify as a means of egress, must also have a platform outside the window and a
18 stair, permanently affixed to the building, leading to ground level. [(viii)]

19 (vi) Youth placed in a supervised setting that is a supervised independent living unit are
20 not permitted to sleep above the second story in a building of type 5, wood frame construction
21 (that type of construction in which the walls, partitions, floors and roof are wholly or partly of
22 wood or other combustible materials) unless a fully approved operating fire protection and/or fire
23 detection systems exists throughout the building including basement and attic areas. Youth of
24 limited mobility and an unaccompanied child of parenting youth as such term is defined in
25 section 441.2 of this Title are not permitted above the first story in a building of wood frame
26 construction. A building of wood frame construction occupied by youth of limited mobility must
27 be protected by a sprinkler system and the first story must be handicap accessible for youth of
28 limited mobility and accommodate the needs of such youth.

29 [(ix)] (vii) All exit doors and means of egress, halls and stairs must be in compliance with
30 all applicable state and local ordinances, rules, regulations and codes and must be well lighted
31 and kept clean, free of obstruction and ready at all times for immediate use. [Battery-operated]
32 In addition, if the supervised setting is a supervised independent living unit, battery-operated or
33 generator-powered emergency lighting units or systems must be provided and maintained in
34 accordance with the New York State Uniform Fire Prevention and Building Code.

35 [(x) Each supervised independent living unit must be provided with emergency lights, such as
36 flashlights or battery-operated lanterns, in good working order.

37 (xi) Each supervised independent living unit must have a plan for evacuation of the unit, posted
38 in a conspicuous place on each floor level in the unit. The agency must maintain a diagram of
39 the living unit's floor plan on file.

40 (xii) Youth and staff must be instructed in how to evacuate the building in which the supervised
41 independent living unit is located. Newly admitted youth, newly hired staff and volunteers must
42 be instructed in evacuation procedures as part of their orientation to the supervised independent
43 living unit. Evacuation procedures must be reviewed quarterly with youth after placement.

1 (xiii) Electrical wiring and equipment must comply with the New York State Uniform Fire
2 Prevention and Building Code and any other applicable laws, ordinances, rules, regulations and
3 codes. Certification of such compliance is required for all new supervised independent living
4 units prior to opening and a record of such certification of compliance must be kept on file by the
5 authorized agency. OCFS may require recertification of the safety of an electrical system in any
6 supervised independent living unit where the electrical system appears to be unsafe or
7 inadequate, or if new electrical work has been done.

8 (xiv) Heating, ventilating and other mechanical systems must comply with the New York State
9 Uniform Fire Prevention and Building Code and any other applicable laws, ordinances, rules,
10 regulations and codes and must be designed, installed, located and maintained so that under
11 normal conditions of use such equipment and systems are not a danger to the health or welfare
12 of youth or staff in the building in which the supervised independent living unit is located.
13 Heating plants and equipment must be protected from tampering by youth.

14 (xv) All shop, maintenance, grounds and farm equipment must be equipped with approved
15 safety devices and must be maintained in safe working condition. Youth must not operate such
16 equipment except under the close supervision of responsible staff members.

17 (xvi) A minimum of one non-coin operated, single line telephone must be provided and must be
18 accessible at all times in each supervised independent living unit occupied by youth or each
19 youth must be provided with a personal cellular telephone. Emergency telephone numbers for
20 fire, police and medical assistance must be posted in the supervised independent living unit.

21 (xvii) Each authorized agency must request in writing an annual safety inspection of the
22 buildings in which supervised independent living units are located and all fire protection
23 equipment by local fire authorities and/or the authorized agency fire and casualty insurance
24 carrier who must be requested to give the authorized agency a written report of their findings.
25 An authorized agency is responsible for correcting any hazards called to its attention as a result
26 of such inspection that could affect a supervised independent living unit in the building and for
27 keeping a copy of the report and a written record of the action taken, with date, on file. An
28 authorized agency must keep a copy of the written request for inspection and the response on
29 file and must notify OCFS immediately in the event that such request for inspection is rejected
30 by the local fire authorities or the authorized agency's fire and casualty insurance carriers.

31 (xviii)]

32 (viii) An authorized agency must report promptly by telephone to OCFS the occurrence
33 of any fire in any supervised [independent living unit] setting, or within any building in which
34 such authorized agency has approved or certified a supervised [independent living unit] setting.
35 This report must be made as soon as possible and in no event later than 24 hours after the fire,
36 and the authorized agency must then confirm the occurrence of the fire by a written report to
37 OCFS within 10 working days after the date of the fire. The written report must include:

38 (a) the date and time of the fire;

39 (b) the extent of personal injuries;

40 (c) the extent of property damage;

- 1 (d) the probable cause of the fire, if known;
- 2 (e) which fire department responded;
- 3 (f) whether youth were relocated, and, if so, where;
- 4 (g) whether fire and smoke detection and alarm devices or systems operated properly;
- 5 (h) whether evacuation procedures were followed;
- 6 (i) the location of the fire;
- 7 (j) a description of the progress of the fire, the manner in which the fire spread and what
8 efforts were made and methods were used to combat the fire; and
- 9 (k) any problems encountered with evacuation procedures, response by the fire
10 department and ability of the fire department to combat the fire effectively.

11 [(xix)] (ix) All fireplaces and their chimneys in the supervised [independent living unit]
12 setting must be inspected and cleaned annually by a qualified person. [(5)]

13 (x) The following additional requirements only apply if the supervised setting is a
14 supervised independent living unit:

15 (a) Each supervised independent living unit must be provided with emergency lights,
16 such as flashlights or battery-operated lanterns, in good working order.

17 (b) Each supervised independent living unit must have a plan for evacuation of the unit,
18 posted in a conspicuous place on each floor level in the unit. The agency must maintain a
19 diagram of the living unit's floor plan on file.

20 (c) Youth and staff must be instructed in how to evacuate the building in which the
21 supervised independent living unit is located. Newly admitted youth, newly hired staff and
22 volunteers must be instructed in evacuation procedures as part of their orientation to the
23 supervised independent living unit. Evacuation procedures must be reviewed quarterly with
24 youth after placement.

25 (d) Electrical wiring and equipment must comply with the New York State Uniform Fire
26 Prevention and Building Code and any other applicable laws, ordinances, rules, regulations and
27 codes. Certification of such compliance is required for all new supervised independent living
28 units prior to opening and a record of such certification of compliance must be kept on file by the
29 authorized agency. OCFS may require recertification of the safety of an electrical system in any
30 supervised independent living unit where the electrical system appears to be unsafe or
31 inadequate, or if new electrical work has been done.

32 (e) Heating, ventilating and other mechanical systems must comply with the New York
33 State Uniform Fire Prevention and Building Code and any other applicable laws, ordinances,
34 rules, regulations and codes, and must be designed, installed, located and maintained so that
35 under normal conditions of use such equipment and systems are not a danger to the health or

1 welfare of youth or staff in the building in which the supervised independent living unit is located.
2 Heating plants and equipment must be protected from tampering by youth.

3 (f) Each authorized agency must request in writing an annual safety inspection of the
4 buildings in which supervised independent living units are located and all fire protection
5 equipment by local fire authorities and/or the authorized agency fire and casualty insurance
6 carrier who must be requested to give the authorized agency a written report of their findings.
7 An authorized agency is responsible for correcting any hazards called to its attention as a result
8 of such inspection that could affect a supervised independent living unit in the building and for
9 keeping a copy of the report and a written record of the action taken, with date, on file. An
10 authorized agency must keep a copy of the written request for inspection and the response on
11 file and must notify OCFS immediately in the event that such request for inspection is rejected
12 by the local fire authorities or the authorized agency's fire and casualty insurance carriers.

13 (6) There must be an adequate and accessible supply of hot and cold water of safe
14 quality in the supervised [independent living unit] setting. [(6)]

15 (7) The supervised [independent living unit] setting must be effectively screened against
16 flies and other insects. [(7)]

17 (8) Temperature in the supervised [independent living unit] setting must be maintained
18 at a comfortable level according to New York State Fire Prevention and Building Codes. [(8)]

19 (9) Adequate bathing, toilet and lavatory facilities must be provided in the supervised
20 [independent living unit,] setting and must be kept in sanitary condition. [(9)]

21 (10) Each youth must have a separate bed. Single bedrooms must [contain at least 70
22 square feet. Bedrooms occupied by more than one youth must have 70 square feet plus an
23 additional 50 square feet of floor area per additional youth. There must be at least two feet of
24 space between beds. Youth must not walk through one bedroom to get to another bedroom]
25 comply with all applicable state and local ordinances, rules, regulations and codes. [(10)]

26 (11) All habitable rooms[, except the kitchen,] must [be no less than seven feet in any
27 dimension. For rooms with sloped ceilings, include only the floor dimensions with a clear ceiling
28 height of five feet or more in this calculation. One-third of the minimum required floor area of
29 each room must have a ceiling height of seven feet] comply with all applicable state and local
30 ordinances, rules, regulations and codes regarding room dimensions and ceiling clearances.
31 [(11)]

32 (12) The kitchen must [have at least three feet of clear passage between counter fronts
33 and appliances or counter fronts and walls] comply with all applicable state and local
34 ordinances, rules, regulations and codes. [(12)]

35 (13) Every sleeping room occupied by youth must have [good] a source of natural light
36 and ventilation, and must have one or more windows [opening] facing directly to the outside.
37 [(13)]

38 (14) No bed may be located in an unfinished attic, unfinished basement or other space
39 commonly used for other than bedroom purposes and all sleeping areas must comply with all
40 applicable state and local ordinances, rules, regulations and codes. [(14)]

1 (15) Separate and accessible drawer space for personal belongings, and sufficient
2 closet space for indoor and outdoor clothing, must be available for individual youth. [(15)]

3 (16) Supervised settings which are a supervised independent living [units which] units
4 and that [house] provide housing to parenting youth and their children must comply with the
5 following additional conditions:

6 (i) no peeling or damaged paint or plaster may be present;

7 (ii) access to outdoor play space must be available;

8 (iii) radiators and piping accessible to children must be covered or have a barrier to
9 protect children;

10 (iv) porches, decks, and stairways must have railings with a barrier to prevent children
11 from falling;

12 (v) adequate barriers to prevent children from gaining access to unsafe, dangerous or
13 hazardous areas or devices, such as fireplaces, wood burning stoves, gas space heaters, pools,
14 spa pools, hot tubs, and second floor and above windows, must be provided;

15 (vi) protective caps, covers, or permanently installed obstruction devices on all electrical
16 outlets accessible to children must be present;

17 (vii) all matches, lighters, medicines, drugs, cleaning material, detergents, aerosol cans,
18 beauty aids, and poisonous or toxic materials and plants must be safely stored and must be
19 used in such a way that they will not contaminate play surfaces, food and food preparation
20 areas, or constitute a hazard to children, and other such materials must be kept in a place
21 inaccessible to children;

22 (viii) hand bags, backpacks, briefcases, plastic bags, toys and objects small enough for
23 children to swallow must not be accessible to children; and

24 (ix) each child must have a separate bed or crib, as appropriate. [(16)]

25 (17) Children of different genders above the age of four years may not sleep in the
26 same room unless otherwise deemed appropriate by the authorized agency responsible for
27 operating or certifying the supervised independent living unit, except that a parenting youth may
28 sleep in the same room as [his or her] their children.

29 (c) Services

30 (1) At initial entry to a supervised setting program and at least on a quarterly basis and
31 thereafter, an authorized agency operating an approved supervised setting program must
32 conduct a diligent and ongoing effort to establish adult permanency resources available to the
33 youth; including identification and engagement of all kinship supports and resources who may
34 contribute positively to the youth.

1 (2) Supervised [independent living] setting programs must include but are not limited to
2 the following service components to provide youth with opportunities to demonstrate and
3 achieve positive outcomes and make successful transitions to [self-sufficiency] adulthood:

4 (i) [an ongoing support network of consistent adults or families in their lives;(ii)] a diligent
5 and ongoing effort to [establish an adult permanency resource for each youth] actively involve
6 the youth in identifying, establishing, and maintaining connections, as well as fostering
7 relationships with adult permanency resources who will continue to provide support and
8 guidance to the youth prior to and following discharge from foster care; [(iii)]

9 (ii) preventive health care and programs to provide the youth with an understanding of
10 appropriate health and behavioral health care literacy, including but not limited to navigation of
11 medical systems, routine health care standards and non-routine or emergency/urgent care
12 experiences, including accessing preventive health care in their community when available,
13 which may include but are not limited to sexual and reproductive health and where relevant,
14 parenting skills; [(iv)]

15 (iii) employment skills/training opportunities and the development of work ethics,
16 including services that develop a youth's ability to find, apply for and retain appropriate
17 employment as well as employment programs/vocational training that help youth gain
18 experience and skills in a specific field or profession; [(v)]

19 (iv) educational support, including secondary academic services designed to help a
20 youth complete high school or complete classes for the New York State high school equivalency
21 exam and/or post-secondary services designed to help a youth enter or complete a college or
22 vocational program; [(vi)]

23 (v) housing support, including working with the youth to look for, secure and maintain
24 stable housing; [(vii)]

25 (vi) budgeting and financial [management] literacy skills, including but not limited to an
26 assessment of the youth's income and expenses to prepare for self-sufficiency; [(viii)]

27 (vii) home management skills, including but not limited to shopping, cooking and
28 [housecleaning skills] maintaining the living environment; [(ix)]

29 (viii) access to community resources/community linkages, including but not limited to
30 medical, mental health, youth development, civic, social and other supports that provide the
31 youth knowledge and awareness of their neighborhood/community;

32 [(x) connections with caring adults, such as mentors; (xi)]

33 (ix) positive youth development; [(xii)]

34 (x) necessary developmentally appropriate services, as determined based on an
35 assessment of the needs of the individual youth; [(xiii)]

36 (xi) preparation for discharge and the transition to [adulthood] self-sufficiency;[(xiv)]

1 (xii) parenting skills, healthy pregnancy skills, child development education and any
2 other [child rearing training] individualized and developmentally appropriate training deemed
3 necessary for a parenting youth and their child; and [(xv)]

4 (xiii) ongoing comprehensive assessment of life skills [competency] for each individual
5 youth and for pregnant or parenting youth life skills specific to their needs. [(2)]

6 (3) Supervised settings [independent living units] that house [parent youth and their
7 children] a parenting youth and a child of a parenting youth unit, as defined in section 427.2 of
8 this Title, or a youth who may be pregnant, must also meet the following criteria:

9 (i) The authorized agency staff and pregnant or parenting youth must maintain current
10 first-aid and CPR training certification.

11 (ii) The [plan for youth in placement must include] pregnant or parenting youth in
12 placement must have a plan that includes developmentally appropriate childcare for the child
13 and is established in consultation with authorized agency staff.

14 (iii) [No] The authorized agency must make available to pregnant or parenting youth and
15 their children services to support the youth's ability to parent effectively and to support the
16 developmental needs of the youth and the family.

17 (iv) Additionally, if the supervised setting is a supervised independent living unit, no more
18 than two children under 2 years of age may be cared for in [a]the supervised independent living
19 unit.

20 (d) Other conditions required for youth participation in supervised [independent living]
21 setting programs.

22 (1) Youth who participate in the supervised [independent living] setting program must be
23 at least 16 years of age and not more than 21 years of age.

24 (2) Such youth must have [been in a foster care placement for at least 45 consecutive
25 days during the period immediately preceding the date on which the youth entered a supervised
26 independent living program, or must have been in the care and custody or custody and
27 guardianship of a social services official or OCFS and have been discharged from foster care on
28 a trial basis in accordance with the provisions of section 430.12(f)(4) of this Title] a readiness
29 assessment completed with them prior to initial placement in a supervised setting or prior to a
30 change in placement; this requirement does not apply to youth placed in a college-owned
31 housing.

32 (3) The supervised [living] setting program must comply with applicable discharge
33 planning requirements set forth in Part 428 and section 430.12(f) of this Title.

34 (4) As required by section 428.7 of this Title, a plan amendment must be documented
35 and approved by the social services district with case management responsibility for the child
36 within 30 days of discharge of the child from foster care.

1 (5) Prior to the transfer of a [foster child] youth in foster care to a supervised
2 [independent living] setting program, the local district which has care and custody or custody
3 and guardianship of the child, or, for a youth in the custody of OCFS, OCFS, must give written
4 approval of the transfer. This written requirement does not apply to youth placed in college-
5 owned housing.

6 (6) Health supervision, medical and dental care must be provided to each youth in
7 accordance with section 441.22 of this Title.

8 (7) The educational, vocational and recreational needs of youth must be met.
9 Opportunities to explore higher education and financial aid information and support must be
10 made available to the youth as appropriate.

11 (8) Each supervised independent [living unit] setting must have facilities that will enable
12 youth to prepare meals. The authorized agency must [require that] support the youth [maintain]
13 in maintaining sufficient quantities of good quality, properly prepared food specific to the dietary
14 needs of the youth. This requirement does not apply if the supervised setting is college-owned
15 housing with communal meal space.

16 (9) Youth must have individual toilet articles [and requisites] for personal grooming and
17 hygiene[suitable to ages and needs] that are safe and age and developmentally appropriate.

18 (10) Youth must have appropriate seasonal clothing in sufficient quantity. Clothing must
19 be kept clean and in good repair.

20 (11) [A supervised independent living unit may occupy a house or apartment rented or
21 owned by the authorized agency.

22 (12) No supervised independent living unit may house more than four youth including their
23 children.

24 (13) If two or more youth live together in the same unit, they must be of the same gender unless
25 the authorized agency receives approval to place siblings of the opposite gender together by
26 utilizing the waiver process identified in section 449.6 of this Part.

27 (14) Only persons placed in the supervised independent living program by the authorized
28 agency may reside in a supervised independent living unit] Youth must be provided regular and
29 ongoing opportunities to engage in age or developmentally-appropriate activities, in accordance
30 with the requirements of the reasonable and prudent parenting standard. [(15)]

31 (12) Supervised [independent living] setting programs must be in compliance with all
32 applicable provisions of State and local laws, ordinances, rules and regulations concerning
33 health, safety and nondiscrimination.

34 49. Subdivision (b) of section 449.6 of the Official Compilation of Codes, Rules and
35 Regulations of the State of New York is amended to read as follows:

36 (b) An authorized agency operating a supervised [independent living] setting program
37 must maintain a record of each youth received for care, showing the name, date of birth and

1 religious faith of the youth; the supervised [independent living unit] setting to which the youth is
2 assigned; and other information pertinent for identification and supervision of the youth.

3 50. Section 449.7 of the Official Compilation of Codes, Rules and Regulations of the
4 State of New York is amended to read as follows:

5 449.7 Waivers

6 (a) [In] Any provision of other Parts of this Title notwithstanding and in order to
7 encourage the development of appropriate programs that will enable [foster] youth in foster care
8 to live on their own in the community, a written waiver of one or more of the non-statutory
9 provisions of this Part may be granted by OCFS to authorized agencies which propose to
10 operate or which operate supervised [independent living program and supervised independent
11 living units] setting programs. Provided however, that no authorized agency may apply for a
12 waiver regarding any requirements regarding non-discrimination. Such waiver may be granted
13 only after an authorized agency has submitted to OCFS: the specific regulation or regulations
14 for which a waiver is sought; the reason a waiver is necessary; and a plan which describes the
15 operation or proposed operation of the authorized agency's supervised [independent living]
16 setting program and demonstrates that granting the waiver will not create any hazardous
17 conditions which could impair the health or safety of the youth, and OCFS has approved the
18 waiver plan in writing.

19 (b) An authorized agency which operates a supervised [independent living] setting
20 program and which has applied for a waiver must comply with the provisions of this Part until
21 OCFS approves the requested waiver in writing.

22 (c) An authorized agency which does not operate a supervised [independent living] setting
23 program but proposes to do so subject to a waiver and which submits a waiver plan to OCFS
24 pursuant to this subdivision may not operate the supervised [independent living program or
25 supervised independent living unit] setting program or approve any supervised setting until such
26 waiver plan has been approved pursuant to this subdivision.

27 (d) OCFS may require the applicant for, or holder of, a license or operating certificate to
28 make physical plant modifications, and/or to adopt special methods, procedures, and/or policies
29 to protect the health, safety and welfare of youth as a condition of granting and maintaining a
30 waiver granted pursuant to this section.

31 (e) Written approval of a request for a waiver will be granted only pursuant to a
32 determination by OCFS that the proposed waiver will not adversely affect the health, safety or
33 welfare of the youth in the program or facility and that the intended purpose of the regulation or
34 regulations to be waived will be met.

35 (f) Waivers may be time limited, at the discretion of OCFS. Where a waiver is time
36 limited, the program or facility may apply for a continuation of the waiver. If the program or
37 facility does not apply for a continuation of the time-limited waiver or the continuation of the
38 time-limited waiver is not granted by OCFS, the program must resume compliance with the
39 regulation or regulations for which the waiver had been issued upon the expiration of the waiver.

40 (g) Failure to adhere to the terms of the waiver and to any alternative measures required
41 by OCFS as a condition of granting the waiver will result in rescission of the waiver and may

1 constitute sufficient cause for OCFS to limit, suspend, or revoke the license or
2 operating certificate of the facility or program for which the waiver was granted. OCFS must
3 notify the facility or program in writing of the rescission of a waiver, and the rescission will become
4 effective upon the receipt by the program of the written notification. The written notification of
5 the rescission may be communicated through personal delivery, electronic mail, telefax or regular
6 mail, at the discretion of OCFS.

7 51. Section 449.8 of the Official Compilation of Codes, Rules and Regulations of the
8 State of New York is amended to read as follows:

9 449.8 Discontinuance.

10 An authorized agency may not discontinue the operation of a supervised [independent
11 living] setting program except upon service of written notice to OCFS at least 90 days in
12 advance of the proposed discontinuance. Such notice must comply with the requirements of
13 section 476.2(d) of this Title.

14 52. Subparagraph (vi) of paragraph (4) of subdivision (a) of section 628.3 of the Official
15 Compilation of Codes, Rules and Regulations of the State of New York is amended to read as
16 follows:

17 (vi) running away--up to seven consecutive days, except authorized agencies that have
18 received approval from the Office of Children and Family Services to operate a program for
19 youth who have been or are at risk of sex trafficking, pursuant to Part 440 of this Title, may be
20 reimbursed for up to 14 consecutive days for youth who have been or are at risk of sex
21 trafficking who run away.

22
23