

SUBCHAPTER 70F – CHILD PLACING AGENCIES AND RESIDENTIAL MATERNITY HOMES

SECTION .0100 – GENERAL

10A NCAC 70F .0101 SCOPE

The rules in this Subchapter apply to agencies that receive children for the purpose of placement in family foster homes, therapeutic foster homes, adoptive homes, and residential maternity homes. In addition, if agencies provide therapeutic foster care services, the rules in 10A NCAC 27G .0203 and .0204; 10A NCAC 70E; and 10A NCAC 70G apply. The North Carolina Department of Health and Human Services, Division of Social Services, is the licensing authority for child-placing agencies for adoption, child-placing agencies for foster care, and residential maternity homes.

History Note: Authority G.S. 131D-1; 131D-10.3; 131D-10.5; 143B-153;
Eff. February 1, 1986;
Amended Eff. January 1, 2002; July 1, 1990;
Temporary Amendment Eff. February 1, 2002;
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10A NCAC 70F .0102 LICENSURE

History Note: Authority G.S. 131D-1; 131D-10.3; 131D-10.5; 131D-10.10; 143B-153;
Eff. February 1, 1986;
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Amended Eff. October 1, 2008; August 1, 2004;
Repealed Eff. August 1, 2011.

SECTION .0200 - ORGANIZATION AND ADMINISTRATION

10A NCAC 70F .0201 GOVERNANCE

- (a) A private child-placing agency and residential maternity home shall have a governing body that exercises authority and has responsibility for its operation, policies, and practices. The private child-placing agency and maternity home shall notify the licensing authority of the type and structure of the governing body.
- (b) A private child-placing agency and a residential maternity home that operates under articles of incorporation shall file the articles of incorporation with the Department of the Secretary of State (<http://www.secretary.state.nc.us>). An official copy of the articles of incorporation shall be submitted to the licensing authority.
- (c) In the case of non-profit or for-profit corporations, the governing body shall:
- (1) be composed of no fewer than six members to include men and women;
 - (2) provide for a system of rotation for board members and limitation to the number of consecutive terms a member may serve;
 - (3) establish standing committees;
 - (4) provide orientation for new members; and
 - (5) meet at least four times annually with a quorum present.
- (d) An agency shall submit to the licensing authority a list of members of the governing body. This list shall indicate the name, address, and term of membership of each member and shall identify each officer and the term of that office.
- (e) A governmental agency shall identify the statutory basis for its authority to operate a child-placing agency or a residential maternity home.
- (f) The agency shall permanently maintain meeting minutes of the governing body and committees.

History Note: Authority G.S. 131D-1; 131D-10.5; 143B-153;
Eff. February 1, 1986;
Amended Eff. November 1, 2009; October 1, 2008; July 1, 1990;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70F .0202 RESPONSIBILITIES OF THE GOVERNING BODY

(a) The governing body shall provide leadership for the agency and shall approve the agency's policies and programs.

(b) The governing body shall employ an executive director who is located in the agency's administrative office within the geographical boundaries of North Carolina and shall delegate responsibility for the administration and operation of the agency to that director, including the employment and discharge of all agency staff.

(c) The governing body shall:

- (1) require the executive director provide a signed statement that the executive director has no criminal, social, or medical history that would adversely affect his or her capacity to work with children and adults;
- (2) ensure that the criminal histories of an executive director are completed;
- (3) ensure that searches of the North Carolina Sex Offender and Public Protection Registry and the North Carolina Health Care Personnel Registry pursuant to G.S. 131E-256 are completed;
- (4) submit authorization to the licensing authority to search the Responsible Individuals List, as defined in 10A NCAC 70A .0102, to determine if the executive director has had child protective services involvement resulting in a substantiation of child abuse or serious neglect;
- (5) make all determinations concerning an individual's fitness for employment based on the requirements of this Paragraph prior to employment;
- (6) require that the executive director provide a signed statement prior to employment that he or she has not abused or neglected child, has not been a respondent in a juvenile court proceeding that resulted in the removal of a child, and has not had child protective services involvement that resulted in the removal of a child; and
- (7) require that the executive director provide a signed statement that he or she has not abused, neglected, or exploited a disabled adult and that he or she has never committed an act of domestic violence upon another person.

Agencies or applicants that do not have a governing body shall provide this information directly to the licensing authority.

(d) The executive director is not eligible for employment if he or she has been convicted of a felony involving:

- (1) child abuse or neglect;
- (2) spouse abuse;
- (3) a crime against a child or children, including child pornography; or
- (4) a crime of rape, sexual assault, or homicide.

(e) The executive director is not eligible for employment if within the last five years he or she has been convicted of a felony involving:

- (1) assault;
- (2) battery; or
- (3) a drug-related offense.

(f) The governing body shall annually evaluate the executive director's performance, except a sole proprietor or partner is exempt from this Rule if he or she serves as executive director.

(g) The governing body shall approve the annual budget of anticipated income and expenditures necessary to provide the services described in its statement of purpose. Child-placing agencies and residential maternity homes receiving foster care payments or state maternity home funds shall submit an annual audit of their financial statements to the Department of Health and Human Services, Controller's Office, Cost Analysis Branch, Rate Setting Unit and shall comply with 10A NCAC 70D .0105(a)(5).

(h) The governing body shall annually evaluate the effectiveness of the agency's service to its clients. This evaluation shall include the agency's services to ensure client safety.

(i) The governing body shall establish in writing confidentiality policies and procedures for control and access to and receipt, use, or release of information about its clients.

(j) The governing body of child-placing agencies providing foster care services shall develop a written disaster plan that is provided to agency personnel and foster parents. The disaster plan shall be prepared and updated at least annually. The governing body of residential maternity homes shall comply with 10A NCAC 70K .0315(g).

(k) The governing body shall develop a plan, in the event of the closing of the agency, that shall contain:

- (1) the date of projected closing;

- (2) the name, address, email, and phone number of the contact person responsible for accessing the agency's records;
 - (3) the physical location of the records; and
 - (4) how the agency plans to keep records secure and confidential.
- (l) The governing body shall develop and implement policies and procedures to comply with Title VI Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act, incorporated by reference including subsequent amendments and editions.
- (m) The governing body shall insure that the agency complies with the Multiethnic Placement Act (MEPA) of 1994, P.L. 103-82, as amended by the Interethnic Adoption Provisions (IEP) of 1996, which is incorporated by reference, including subsequent amendments and editions.
- (n) The governing body shall comply with the terms and conditions of State and Federal requirements to participate in procurement contracts and covered non-procurement transactions as required by 45 C.F.R. 82.510 and 49 C.F.R. 29.630, which is incorporated by reference, including subsequent amendments and editions.

History Note: Authority G.S. 131D-10.5; 131D-10.6; 131D-10.10; 143B-153;
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10A NCAC 70F .0203 FINANCES, FEES AND INSURANCE

- (a) Child-placing agencies and residential maternity homes shall have a written line item budget, showing planned expenditures and revenues available to operate the agency for a 12 month period. A copy of the budget shall be submitted to the licensing authority prior to initial licensure and biennially thereafter.
- (b) Child-placing agencies and residential maternity homes receiving foster care maintenance payments of state funds or state maternity home funds shall submit an annual audit of their financial statements to the Department of Health and Human Services, Controller's Office in compliance with 10A NCAC 70D .0105(a)(5).
- (c) Child-placing agencies and residential maternity homes shall have a written policy on fees for services which shall be inclusive of all fees and charges. No cost beyond the written policy shall be imposed. The agency policy shall describe the relationship between fees and services provided and the conditions under which fees are charged or waived. The agency shall make the policy available to applicants for services at the time an application for service is made and to the public upon request.
- (d) Adoption agencies that provide international adoption services shall inform prospective adoptive parents of the estimated or actual expenses associated with an international adoption that includes:
- (1) application fees;
 - (2) preplacement assessment (homestudy) fees;
 - (3) pre-adoption service fees;
 - (4) government and facilitator fees;
 - (5) placement service fees;
 - (6) post-placement and post-adoption service fees;
 - (7) travel and other costs and fees in the child's country of origin; and
 - (8) additional costs associated with the adoption.
- (e) Child-placing agencies and residential maternity homes shall notify the licensing authority, parents, guardian, and legal custodian (if applicable) of its status related to liability insurance for the agency and staff to applicants for services at the time an application for service is made.
- (f) The executive director shall report to the governing body at least quarterly, or more frequently if requested by any member of the governing body, on present financial status and anticipated problems.

History Note: Authority G.S. 131D-10.5; 131D-10.10; 143B-153;
Eff. February 1, 1986;
Amended Eff. June 1, 2010; October 1, 2008; July 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70F .0204 AGENCY SETTING

- (a) The agency shall maintain an administrative office within the geographical boundaries of North Carolina from which the activities carried out under the North Carolina license are handled.
- (b) The agency shall provide and maintain office space, equipment and supplies to ensure the following:
 - (1) confidentiality and safekeeping of records;
 - (2) privacy for interviewing and conferences; and
 - (3) availability of visiting rooms for families and children.
- (c) The current license shall be posted at all times in a conspicuous place in the primary administrative North Carolina office of the agency.
- (d) The administrative office of a child-placing agency for foster care and a child-placing agency for adoption shall not be located in a private residence that is occupied, a group home or maternity home that is occupied, a crisis pregnancy center or any other similar occupied dwelling, business, or facility. The office of a residential maternity home may be located in the maternity home.

*History Note: Authority G.S. 131D-1; 131D-10.5; 143B-153;
Eff. February 1, 1986;
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10A NCAC 70F .0205 RESPONSIBILITY TO LICENSING AUTHORITY

- (a) The agency shall submit, biennially to the licensing authority, the information and materials to document compliance with the licensure rules and to support issuance of a license.
- (b) The agency shall submit to the licensing authority a biennial statistical report of program activities that shall include information such as agency governance structure, financial data, staff employed, and clients served during the licensure period.
- (c) The agency shall provide written notification to the licensing authority of a change in the executive director within 72 hours.
- (d) The agency shall provide written notification to the licensing authority of any changes in policies and procedures to assure that the changes are in compliance with the rules in Subchapters 70E, 70F, 70G, 70H, or 70K. The agency shall not institute any changes in policies and procedures until after it receives written approval from the licensing authority.
- (e) Child-placing agencies for foster care shall comply with requirements related to the handling and reporting of critical incidents, in accordance with 10A NCAC 70G .0513. Residential maternity homes shall comply with requirements related to the handling and reporting of critical incidents in accordance with 10A NCAC 70K .0210.
- (f) If there is a death of a child or resident in placement in a home supervised by the agency, the executive director or his or her designee shall notify the licensing authority within 72 hours.
- (g) The agency shall provide to the licensing authority at the time of license application the legal name and social security number of each individual who holds at least a five percent interest in the agency.
- (h) The agency shall provide to the licensing authority written notification of a change in the legal name of any person holding an interest in the agency of at least five percent within 30 days following the changes.
- (i) The agency shall notify the local management entity within 24 hours of placement that a child may require Mental Health, Developmental Disability or Substance Abuse Services.
- (j) If a child-placing agency for foster care is monitored by a local management entity, the agency shall provide data to the local management entity as required by Department of Health and Human Services for monitoring and reporting to the General Assembly.
- (k) The agency shall notify the licensing authority within 24 hours if the agency receives notice of debarment that prohibits the agency from participating in State and Federal procurement contracts and covered non-procurement transactions.

*History Note: Authority G.S. 131D-1; 131D-10.3; 131D-10.5; 143B-153;
Eff. February 1, 1986;
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Amended Eff. August 1, 2017; October 1, 2008; August 1, 2004;*

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70F .0206 PERSONNEL POLICIES

(a) The agency shall have written policies for all employees (full-time, part-time and contracted) which include the following:

- (1) written job descriptions and titles for each position defining the qualifications, duties, and lines of authority;
- (2) salary scales;
- (3) a description of employee benefits;
- (4) opportunities for professional growth through supervision, orientation, in-service training, and staff development;
- (5) procedures for annual evaluation of the work and performance of each staff member which includes provision for employee participation in the evaluation process;
- (6) a description of the termination procedures established for resignation, retirement, or discharge; and
- (7) a written grievance procedure for employees.

(b) The agency shall have a personnel file for each employee (full-time, part-time, and contracted) which includes the following:

- (1) the application for employment, including record of work experience;
- (2) documentation of at least three references;
- (3) applicable professional credentials or certifications (prior to employment certified college transcripts shall be obtained for positions requiring college degrees);
- (4) signed statement indicating the employee's understanding of and willingness to comply with confidentiality requirements;
- (5) signed statement that the employee has no criminal, social, or medical history which would adversely affect the employee's capacity to work with children and adults;
- (6) criminal record checks certified by the Clerk of Superior Court;
- (7) results of the search of the North Carolina Sex Offender and Public Protection Registry;
- (8) results of the search of the North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256);
- (9) results of the Responsible Individuals List as defined in 10A NCAC 70A .0102 that indicate the employee has not had child protective services involvement resulting in a substantiation of child abuse or serious neglect;
- (10) signed statement that the applicant has not abused or neglected a child, has been a respondent in a juvenile court proceeding that resulted in the removal of a child, or had child protective services involvement that resulted in the removal of a child;
- (11) signed statement that the applicant has not abused, neglected, or exploited a disabled adult;
- (12) signed statement that the applicant has not been a domestic violence perpetrator;
- (13) log of training;
- (14) written approval letter from executive director or his or her designee authorizing staff to administer physical restraint holds, if applicable;
- (15) annual performance evaluations;
- (16) documentation of disciplinary actions;
- (17) documentation of grievances files;
- (18) employee's starting and termination dates; and
- (19) reason for termination.

(c) The agency shall have written procedures which safeguard the confidentiality of the personnel records.

*History Note: Authority G.S. 131D-1; 131D-10.5; 131D-10.6; 143B-153;
Eff. February 1, 1986;
Amended Eff. November 1, 2009; October 1, 2008; July 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70F .0207 STAFF

- (a) The agency shall verify prior to employment the personal qualifications of employees through at least three references.
- (b) The agency shall require that each applicant provide a signed statement that the applicant has no criminal, social or medical history which would adversely affect the applicant's capacity to work with children and adults. Prior to employment, the agency shall submit authorization to the licensing authority to search the Responsible Individuals List as defined in 10A NCAC 70A .0102 to determine if the applicant has had child protective services involvement resulting in a substantiation of child abuse or serious neglect. The agency shall require that each applicant provide a signed statement that the applicant has not abused or neglected a child or has been a respondent in a juvenile court proceeding that resulted in the removal of a child or has had child protective services involvement that resulted in the removal of a child. Prior to employment, a certified criminal record check for the applicant shall be obtained, and a search conducted of the North Carolina Sex Offender and Public Protection Registry and North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256) are completed. The agency shall require that each applicant provide a signed statement that the applicant has not abused, neglected, or exploited a disabled adult, and has not been a domestic violence perpetrator.
- (c) Employees are not eligible for employment if they have been convicted of a felony involving:
- (1) child abuse or neglect;
 - (2) spouse abuse;
 - (3) a crime against a child or children (including child pornography); or
 - (4) a crime of rape, sexual assault, or homicide.
- (d) The employee is not eligible for employment if within the last five years he or she has been convicted of a felony involving:
- (1) assault;
 - (2) battery; or
 - (3) a drug-related offense.
- (e) The agency shall employ staff qualified to perform administrative, supervisory, direct care, social work, therapeutic, and placement services.
- (f) The agency shall have staff to keep correspondence, records, bookkeeping and files current and in good order. The staff shall maintain strict confidentiality concerning contents of the case records.
- (g) The agency shall maintain a roster of members of the staff listing position, title, and qualifications and a current organizational chart showing administrative structure and staffing, including lines of authority. The organizational chart shall be submitted prior to initial licensure and biennially thereafter.
- (h) An agency which uses volunteers and interns as unpaid staff to work directly with clients shall:
- (1) have written job descriptions and select only those persons qualified to meet the requirements of those jobs;
 - (2) require three references relevant to the role and responsibilities to be assumed;
 - (3) designate a staff member to supervise and evaluate volunteers and interns;
 - (4) develop and implement a plan for the orientation and training of volunteers and interns in the philosophy of the agency and the needs of the clients and their families; and
 - (5) require that each volunteer and intern provide a signed statement that they have no criminal, social or medical history that would adversely affect their capacity to work with children and adults. The agency shall submit authorization to the licensing authority to search the Responsible Individuals List as defined in 10A NCAC 70A .0102 to determine if the intern or volunteer has had child protective services involvement resulting in a substantiation of child abuse or serious neglect. Prior to beginning volunteer or intern duties, a certified criminal record check shall be obtained and a search conducted of the North Carolina Sex Offender and Public Protection Registry and North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256). The agency shall require that each volunteer or intern provide a signed statement that the volunteer or intern has not abused or neglected a child, been a respondent in a juvenile court proceeding that resulted in the removal of a child, or had child protective services involvement that resulted in the removal of a child. The agency shall require that each volunteer or intern provide a signed statement that the volunteer or intern has not abused, neglected, or exploited a disabled adult and has not been a domestic violence perpetrator.
- (i) Volunteers or interns are not eligible to serve as volunteers or interns if they have been convicted of a felony involving:
- (1) child abuse or neglect;
 - (2) spouse abuse;

- (3) a crime against a child or children (including child pornography); or
 - (4) a crime of rape, sexual assault, or homicide.
- (j) Volunteers or interns are not eligible to serve as volunteers or interns, if within the last five years they have been convicted of a felony involving:
- (1) assault;
 - (2) battery; or
 - (3) a drug-related offense.
- (k) The agency shall require that each employee provide a signed statement that the employee has no criminal, social or medical history that will adversely affect the employee's capacity to work with children and adults every two years as long as the employee is employed. Every two years as long as the employee is employed, the agency shall submit authorization to the Division of Social Services to search the Responsible Individuals List as defined in 10A NCAC 70A .0102 to determine if the employee has had child protective services involvement resulting in a substantiation of child abuse or serious neglect. Every two years as long as the employee is employed the agency shall require that each employee provide a signed statement that the employee has not abused or neglected a child or has been a respondent in a juvenile court proceeding that resulted in the removal of a child or has had child protective services involvement that resulted in the removal of a child. Every two years as long as the employee is employed, a certified criminal record check for each employee shall be obtained, and a search conducted of the North Carolina Sex Offender and Public Protection Registry and North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256) are completed. The agency shall require that every two years as long as the employee is employed each employee provide a signed statement that the employee has not abused, neglected, or exploited a disabled adult, and has not been a domestic violence perpetrator.
- (l) The employing agency shall make all determinations concerning the individual's fitness for employment, volunteering and internship based on the requirements of this Rule.

History Note: Authority G.S. 131D-10.5; 131D-10.6; 131D-10.10; 143B-153; Eff. February 1, 1986; Amended Eff. August 1, 2011; June 1, 2010; October 1, 2008; July 18, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70F .0208 CONFIDENTIALITY

- (a) The agency shall develop and enforce a policy on confidentiality that:
- (1) identifies the individuals with access to or control over confidential information;
 - (2) specify that persons who have access to records or specified information in a record be limited to persons authorized pursuant to law, including:
 - (A) the client;
 - (B) the parents, guardian, or legal custodian if the client is a minor;
 - (C) agency staff;
 - (D) auditing, licensing, or accrediting personnel; and
 - (E) those persons for whom the agency has obtained a signed consent for release of confidential information;
 - (3) requires that when a client's information is disclosed, a signed written consent for release of information is obtained from the parent, guardian, legal custodian, or client if age 18 or older;
 - (4) provides for a secure place for the storage of records with confidential information;
 - (5) informs any individual with access to confidential information of the provisions of this Rule;
 - (6) ensures that, upon employment and whenever revisions are made to the policy, staff sign a compliance statement that indicates an understanding of the requirements of confidentiality;
 - (7) permits a client to review his or her case record in the presence of agency personnel on the agency premises, in a manner that protects the confidentiality of other family members or other individuals referenced in the record, unless agency personnel determines the information in the client's case record would be harmful to the client;
 - (8) in cases of perceived harm to the client, documents in writing any refusal to share information with the client, parents, guardian, or legal custodian;
 - (9) maintains a confidential case record for each client;
 - (10) maintain confidential personnel records for all employees (full-time, part-time and contracted); and

- (11) maintain confidential records for all volunteers and interns;
- (b) A child-placing agency for foster care and a residential maternity home may destroy in its office:
 - (1) the closed record of a child or resident who has been discharged from foster care or residential maternity care for a period of three years unless included in a federal or state fiscal audit or program audit that is unresolved, in which case the agency may destroy the record in its office when released from all audits; and
 - (2) a record three years after a child or resident has reached the age of 21, unless included in a federal fiscal audit or program audit that is unresolved, in which case the agency may destroy the record in its office when released from all audits.
- (c) All individual children, birth parents, and adoptive family records shall be permanently retained by the agency. After a period of seven years, the files may be microfilmed or scanned in accordance with provisions of G.S. 8-45.1, following which the original files may be destroyed by a shredding process. The adoption agency may destroy in its office the closed records of applicants who were not accepted or who did not have a child placed with them three years after the date of their application, unless included in a federal or state fiscal audit or program audit that is unresolved, then the agency may destroy the record in its office when released from all audits.

History Note: Authority G.S. 131D-1; 131D-10.3; 131D-10.5; 143B-153;
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10A NCAC 70F .0209 CLIENT RIGHTS
10A NCAC 70F .0210 GRIEVANCE PROCEDURES
10A NCAC 70F .0211 SEARCHES
10A NCAC 70F .0212 MEDICATION ADMINISTRATION
10A NCAC 70F .0213 HOME-SCHOOLING

History Note: Authority G.S. 131D-10.5; 143B-153;
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10A NCAC 70F .0214 NORMALCY FOR FOSTER CHILDREN

- (a) Child placing agencies and residential maternity homes shall develop and follow policies and procedures to implement the reasonable and prudent parent standard established in G.S. 131D-10.2A.
- (b) The agency shall demonstrate compliance with policies and procedures that include:
 - (1) appointment of a designated official to apply the reasonable and prudent parent standard when determining whether to allow a child to participate in extracurricular, enrichment, cultural, and social activities;
 - (2) documentation of any reasonable and prudent parent standard decision;
 - (3) training for residential maternity home staff, child placing agency staff, and foster parents in the reasonable and prudent parent standard; and
 - (4) supervision and support to staff and foster parents in implementing the reasonable and prudent parent standard.

History Note: Authority G.S. 131D-10.2A; 131D-10.5; 131D-10.6; 143B-153;
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