


**Applying the Reasonable and Prudent Parenting Standard:  
Supporting Normative Experiences for Children, Youth and Young Adults in Foster Care**

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<p><b>Supporting Regulations:</b> 18 NYCRR 427.3; 428.5(c); 428.9(c); 430.12(c); 441.25; 443.2(e) and 443.3(b)</p>	<p><b>Supporting Case Law:</b></p>	<p><b>Bulletins &amp; Directives:</b> 15-OCFS-ADM-21, <i>Supporting Normative Experiences for Children, Youth, and Young Adults in Foster Care: Applying a Reasonable and Prudent Parent Standard</i>; 15-OCFS-ADM-13, <i>Required Annual Credit Checks for Youth and Young Adults in Foster Care 14 Years of Age and Older</i>; 15-OCFS-ADM-18, <i>New York State Bill of Rights for Children and Youth in Foster Care</i>; 15-OCFS-ADM-19, <i>Planning for a Successful Adulthood: Another Planned Permanent Living Arrangement with a Permanency Resource for Youth 16 Years and Older</i>; 15-OCFS-ADM-22, <i>Case Planning for Youth in Foster Care 14 Years of Age or Older</i>; 17-OCFS-ADM-01, <i>Immunity from Liability When Applying the Reasonable and Prudent Parent Standard</i></p>	

<p><b>Key Words:</b>  Normalcy, normal, normative, permanency, wellbeing, well-being, reasonable, prudent, parenting, caretaker, liability, foster, sleepover, camp, childcare, child care, after school, afterschool, after-school, play date, playdate, trip, school trip, job, work, volunteer, visit, vacation, curfew, date, dating, prom, dance, sport, sports, team, teams, yearbook, drive, driving, conferencing, Family Assessment Service Plan, FASP, Family Team Conference, FTC, Permanency Planning meeting</p>	<p><b>Related Policies:</b></p>	<p><b>Supersedes:</b>  Commissioner’s Memorandum, <i>Treating Foster Children as Members of the Family: Vacations and Sleepovers for Children in Foster Care</i>, 6/29/07</p>
<p><b>SUMMARY:</b></p> <p>This policy provides staff at the Administration for Children’s Services (ACS) and its contracted foster care provider agencies (provider agencies) with information on the requirement for implementing the reasonable and prudent parent standard (the standard) found in the federal Preventing Sex Trafficking and Strengthening Families Act, OCFS regulations and described in 15-OCFS-ADM-21. The policy includes definitions of the standard, caregiver, normative experiences, and age or developmentally appropriate activities. This policy also discusses opportunities for implementing the standard utilizing the Family Assessment Service Plan (FASP), Family Team Conferencing (FTC), and Permanency Planning meetings,<sup>1</sup> and considerations for applying the standard, including issues such as caretaker liability, cost, training and documentation.</p>		
<p><b>SCOPE:</b></p> <p>This policy applies to staff who work with children in foster care, which includes the divisions of Child Protection (DCP) and Family Permanency Services (FPS). This policy also applies to staff within Family Court Legal Services (FCLS), as well as staff at provider agencies.</p>		

<sup>1</sup> Permanency planning meetings are also known as Service Planning Reviews (SPR) and Family Team Conferences (FTC).

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### **Attachments:**

[Attachment A: Applying the Reasonable and Prudent Standard: Gathering Information to Support Normative Experiences](#)

[Attachment B: Applying the Reasonable and Prudent Standard: Caregiver Considerations](#)

[Attachment C: Applying the Reasonable and Prudent Parent Standard: Know Before You Say No](#)

## I. Introduction

### A. Preventing Sex Trafficking and Strengthening Families Act

The Preventing Sex Trafficking and Strengthening Families Act of 2014 (P.L. 113-183) (the Act) is a federal law that amended some provisions of Title IV-E of the Social Security Act. One of the goals of the Act is to improve safety, permanency, and well-being outcomes, as well as to promote normalcy for children, youth, and young adults<sup>2</sup> in the child welfare system. Section 111 of the Act, “Supporting Normalcy for Children in Foster Care,” also known as the reasonable and prudent parenting standard, mandates state child welfare agencies, contracted provider agencies, and courts to facilitate age and developmentally appropriate experiences for all children and to take steps to support normalcy and promote permanency.<sup>3</sup> Research indicates that the more positive experiences children, youth, and young adults have, the more likely they are to develop coping mechanisms, become more resilient to trauma and adverse experiences; cultivate and maintain positive, healthy, and long-lasting relationships; pursue higher educational and career opportunities; sustain a job; and become involved citizens.<sup>4</sup>

### B. Purpose

The purpose of this policy is to provide information to all staff and caregivers regarding the application of the reasonable and prudent parent standard (the standard), best practices for supporting normative experiences for children in foster care, definitions of the standard, training requirements, costs associated with the standard, documentation, and the issue of caretakers’ exposure to liability.

### C. Definitions Related to the Standard<sup>5</sup>

1. **Child:** A child, youth, or young adult who is in foster care or who was in foster care at the time the standard was applied.<sup>6</sup>
2. The **reasonable and prudent parent standard:** The standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child in foster care while at the same time encouraging the

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<sup>2</sup> For the purpose of this policy, children, youth, and young adults will be referred to as “child or children.”

<sup>3</sup> See 15-OCFS-ADM-21 for a description of the Act; see 18 NYCRR § 441.25 which outlines the mandates of the reasonable and prudent parent standard.

<sup>4</sup> See 15-OCFS-ADM-21, Supporting Normative Experiences for Children, Youth, and Young Adults in Foster Care: Applying a Reasonable and Prudent Parent Standard.

<sup>5</sup> See 18 NYCRR 441.25.

<sup>6</sup> See NY CLS SSL §383-a (2017).

emotional and developmental growth of the child. A caregiver must use the standard when determining whether to allow a child in foster care to participate in extracurricular, enrichment, cultural, and social activities.<sup>7</sup>

3. **Caregiver:** The following person or entity at the time that such person or entity was responsible for the care of the foster child or children:<sup>8</sup>
  - a. A foster parent with whom a child in foster care has been placed who has been trained in the standard in accordance with federal statute and OCFS regulations;
  - b. The employee of a child care facility in which a child is placed, including an institution, group residence, group home, agency boarding home or supervised independent living program, operated by an authorized agency designated to apply the reasonable and prudent parent standard who has been trained in the reasonable and prudent parent standard.<sup>9</sup>
4. **Case planner:** For the purposes of this policy and brevity, the term “case planner” refers to any person having or exercising case planning, casework, or case management responsibilities in connection with the child’s case. Agencies may choose to assign some responsibilities described herein to agency staff other than the case planner (for example, reimbursement questions may be referred to someone in the agency’s business office, or a case aide may accompany a child to an afterschool activity). When case planning responsibility is shared between two agencies, the person with child planning responsibility is responsible for the activities and documentation within this policy.
5. **Child care facility:** An institution, group residence, group home, agency-operated boarding home, or supervised independent living program.<sup>10</sup>
6. **Age or developmentally appropriate:** Activities or items that are:
  - a. Generally accepted as being suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

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<sup>7</sup> See 15-OCFS-ADM-21, Supporting Normative Experiences for Children, Youth, and Young Adults in Foster Care: Applying a Reasonable and Prudent Parent Standard.

<sup>8</sup> Prior to receiving certification or approval as foster parents, prospective foster parents must complete, in its entirety, a training on the standard that has been approved and issued by OCFS. See 17-OCFS-ADM-01, pp. 4-5.

<sup>9</sup> NY SSL § 383-a

<sup>10</sup> 17-OCFS-ADM-01, Immunity from Liability When Applying the Reasonable and Prudent Parent Standard.

- b. In the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.<sup>11</sup>
7. **Normative experiences:** Age and developmentally appropriate activities and opportunities that promote the healthy cognitive, social, emotional, physical, and educational development of children, regardless of their involvement in the child welfare system.<sup>12</sup>
- a. Examples of normative experiences/activities<sup>13</sup> include, but are not limited to:
    - i. Going to a friend’s house;
    - ii. Riding a bike;
    - iii. Having a sleepover;
    - iv. Having a playdate;
    - v. Taking a school trip;
    - vi. Working at a part time job (after-school or summer job);
    - vii. Joining a club;
    - viii. Dating;
    - ix. Attending the prom;
    - x. Learning to drive;
    - xi. Having a later curfew – as the youth approaches adulthood;
    - xii. Participating in extracurricular activities considered to be “routine” for many teenagers, such as participating in sports, teams, and clubs;
    - xiii. Attending choir, dance classes, and classes for other interests and talents the youth may have;
    - xiv. Providing opportunities for cultural traditions and holidays the child’s family of origin celebrates;
    - xv. Volunteering;
    - xvi. Use of social media; Going on family vacations;
    - xvii. Traveling out of state;
    - xviii. Taking pictures for publication in a newspaper or yearbook;

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<sup>11</sup> These activities should be sought while also taking into consideration cultural and religious preferences of the child’s family of origin.

<sup>12</sup> OCFS regulation 18 NYCRR 441.11(b) requires that provision be made for each foster child to attend services conducted in his or her own religious faith and receive instruction in such faith, unless the parents or legal guardian expressly request otherwise in writing.

<sup>13</sup> Refer to *Attachment C, Applying the Reasonable and Prudent Parent Standard: “Know” Before You Say “No”* for frequently asked questions that provide guidance on the normative experiences/activities listed above and assistance in applying the standard.

- xix. Traveling alone via public transportation;
- xx. Going on social outings with friends; and
- xxi. Attending summer camp.

## II. Supporting Normalcy for Children in Foster Care

- A. The standard allows caregivers to make daily decisions in lieu of the parent<sup>14</sup> and the caseworker, and provides trained caregivers with protection from liability<sup>15</sup> where they appropriately apply the standard in making decisions about the child,<sup>16</sup> and have completed the mandated training approved and required by OCFS (see section VIII for additional information about training).<sup>17</sup>
- B. Implementation of the standard supports best practices for working with children. The standard requires all child welfare staff and caregivers to make a shift in thinking and move to a more expansive goal of creating a child welfare system that:
  - 1. Encourages the parent, guardian, or prior caretaker,<sup>18</sup> and when appropriate the caregiver, child, and case planner to regularly communicate and make decisions collaboratively such that such communication and collaboration fosters the building of relationships among all stakeholders in the child's life;
  - 2. Promotes an environment that is developmentally appropriate and enriching;
  - 3. Includes trauma-responsive practice;
  - 4. Is grounded in practices that respect and give priority to the religion and culture of the child's family of origin;
  - 5. Responds to the needs and voices of children, youth, and young adults; and
  - 6. Provides children opportunities to learn skills, and develop relationships while growing up in stable, nurturing families and supportive communities.
- C. The standard gives foster parents and designated child care staff (caregivers) more discretion in permitting children in foster care to engage in typical childhood activities.
  - 1. Federal and State law require caregivers to make everyday decisions with regard to the child's participation in extracurricular, enrichment, cultural and social

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<sup>14</sup> The term parent(s) refers to birth and adoptive parent(s).

<sup>15</sup> See 17-OCFS-ADM-01, Immunity From Liability When Applying the Reasonable and Prudent Parent Standard.

<sup>16</sup> While one of the goals of this policy is to make it easier for caregivers to make daily decisions about extracurricular, enrichment, cultural and social activities instead of consulting with the agency or parent each time, it is important for caregivers, case planners and parents to work collaboratively in the child's best interest.

<sup>17</sup> SSL § 383-a(2)(a)

<sup>18</sup> A "prior caretaker" is the individual, such as a grandmother, aunt, or family friend, who cared for the child before he or she came into foster care. See 15-OCFS-ADM-21, p. 4, footnote 6.

activities that are in the child's best interest,<sup>19</sup> while maintaining the foster child's health and safety, and taking into account family values, cultural and religious practices.

2. Specific provisions include:

- a. Allowing caregivers to make decisions regarding whether the child may engage in extracurricular, enrichment, cultural and social activities without first seeking agency approval.<sup>20</sup> See section I(C)(6), above, for examples of such permissible activities.
- b. Giving caregivers the authority to sign permission slips, where allowed, by the entity requiring the written permission,<sup>21</sup> and to arrange for transportation for the child to and from extracurricular, enrichment, and social activities.
- c. Protecting trained caregivers from liability where they appropriately apply the standard while making decisions regarding the foster child's participation in normative experiences.<sup>22</sup>
- d. Requiring child welfare agencies to ensure that all foster parents the agency has certified or approved have completed a training on the standard that has been approved and issued by OCFS. For new foster parents, such training must be completed prior to receiving certification or approval as foster parents. Existing foster parents certified or approved prior to the effective date of the standard must also complete the training.<sup>23</sup> See section VIII of this policy for additional training information.
- e. Encouraging child welfare agencies to build relationships by engaging parents, guardians, foster parents, or prior caretakers when appropriate to do so. Engagement is not required where the parent's rights have been terminated or surrendered, or where safety concerns are present.

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<sup>19</sup> See 18 NYCRR 443.3, 18 NYCRR 441.25.

<sup>20</sup> The caregiver must apply the reasonable and prudent parent standard, including, where appropriate, engaging the birth/adoptive parent, guardian, or relative caretaker and child (if age appropriate) in determining the child's participation in the activity. See section VI. D. 3, regarding alternative decisions.

<sup>21</sup> For medical consents, see the Medical Consents for Children in Foster Care policy, dated 9/16/2014 and any amended or successor guidance.

<sup>22</sup> See section VI for additional information on caregiver liability.

<sup>23</sup> See 17-OCFS-ADM-01, Immunity from Liability When Applying the Reasonable and Prudent Parenting Standard. The standard has been in effect since September 1, 2015.



- f. Requiring that permanency hearing reports for children in foster care include information about steps taken by ACS and provider agencies to ensure that the foster parent or facility is applying the standard and that the child has regular and ongoing opportunities to engage in age or developmentally appropriate activities.<sup>24</sup>
3. No decision can be made that contradicts or is inconsistent with court order.

### III. Applying the Standard

#### A. Guidance to Provider Agencies

1. Effective September 1, 2015, all caregivers in New York State must use the standard to provide children in their care with opportunities to participate in age and developmentally appropriate normative experiences that promote a child's successful development to adulthood.
2. Appendix D, *Guidelines for Determining Normative Activities*, is a guide to be used by the provider agency staff and caregivers to inform their understanding of age and developmentally appropriate normative experiences.
3. Provider agencies must train all caregivers in the application and utilization of the standard, which must be a training approved and issued by OCFS.<sup>25</sup>
4. Provider agencies must develop procedures for the selection and training of the employees in each child care facility who have been designated to make decisions regarding normative experiences while utilizing the standard.
  - a. The process to be used in the selection of the designated employee shall be specified in writing by the agency, as well as the procedures for the application of the standard in decisions regarding the children in care.

#### B. Guidance to Case Planners

1. The case planner must promote application of the standard throughout casework contact with the child's caregiver and particularly at critical stages:
  - a. Any interaction between the case planner and caregivers, parents, foster parent, guardians or prior caretakers, and children provides an opportunity to

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<sup>24</sup> See changes to the Family Court Act §§ 355.5, 756-a, and 1089.

<sup>25</sup> See 18 NYCRR §§ 441.25(c) and 443.2(e).

address and discuss normative experiences. The following shared decision-making opportunities, meetings, and case milestones offer particular opportunity to review what activities and experiences the child has been offered or exposed to:

- i. FASP;
  - ii. Family Team Conferences (FTC);
  - iii. Permanency Planning and other internal planning meetings; and
  - iv. Planning for and writing permanency hearing reports (PHR).
- b. In the process of developing the FASP, the case planner should use this as one of the first opportunities to engage the parent, guardian, or prior caretaker. It is specifically designed to “support a family-focused approach to casework,”<sup>26</sup> and can also serve as a critical first step to planning and decision-making.
- i. The case planner may use this opportunity to engage the foster parent, parent, guardian, or prior caretaker in discussions regarding:
    - a) The daily decisions and regular activities in which the child is already engaged and/or has expressed interest; and
    - b) The child’s continued participation in normative activities so that there are minimal interruptions to the child’s life.
  - ii. FTCs and other planning meetings can be used as an opportunity to discuss and make decisions together regarding the child’s continued participation in normative activities and the initiation of new activities, as outlined in section I. C. 6. of this policy. If the parent, guardian, or prior caretaker disagrees with a decision regarding the child’s participation in a normative activity, his/ her input should be considered in the decision-making process, when appropriate. If parental rights have been surrendered or terminated such consultation or discussion need not be part of the decision-making process. Furthermore, if the caregiver, case planner, and child (if age and developmentally appropriate) reach an alternative decision as to what is appropriate and in the best interests of the child, they are authorized to move forward over the parent or guardian’s objection. The determination and the basis for such determination must be documented in the child’s case record.<sup>27</sup>

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<sup>26</sup> New York State Office of Children and Family Services. *Family Assessment Service Plan Guide*, “Module 2: The FASP.” [http://www.ocfs.state.ny.us/ohrd/FASP/table\\_of\\_contents.asp](http://www.ocfs.state.ny.us/ohrd/FASP/table_of_contents.asp).

<sup>27</sup> See Attachment C, *Applying the Reasonable and Prudent Parent Standard: Know Before You Say No*, for additional information.

iii. The case planner may use Attachment A, *Applying the Reasonable and Prudent Standard: Gathering Information to Support Normative Experiences*,<sup>28</sup> to engage the parent/guardian and to learn about the child and the activities the child was participating in prior to foster care entry when they meet with the parent.

2. The caregiver must apply the standard:

- a. In making parental decisions that maintain the health, safety, and best interest of the child, as well as decisions about the child's participation in extracurricular, enrichment, cultural, and social activities that are age and developmentally appropriate, in a way that protects the child while allowing for normative experiences. Caregivers can use Attachment C, *Applying the Reasonable and Prudent Parenting Standard: Know Before You Say No*, as a guide for when they can make decisions about normative activities without consulting provider agency staff and when they must obtain prior approval from the case planner, court, or parent.
- b. Attachment B provides a list of questions a caregiver may want to ask or consider prior to making a determination as to whether or not a child should participate in normative experiences and activities.
- c. For the purpose of improving safety, permanency, and well-being outcomes of children. Case planners may refer to Attachment C, *Applying the Reasonable and Prudent Parent Standard: Know Before You Say No*, as a guide when considering a child's participation in normative experiences and activities.
- d. In any communications with the case planner, parent, guardian or prior caretaker, and the child, if age and developmentally appropriate to do so, where the discussion concerns participation in normative experiences.
- e. To support the cognitive, social, emotional, physical, and educational development of the child; by providing guidance and support, setting behavioral expectations, and establishing age and developmentally appropriate boundaries.

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<sup>28</sup> Attachment A contains a series of questions for gathering information from the parent, guardian, or prior caregiver and child, if age and developmentally appropriate, about the child's day-to-day activities and participation in normative activities.

#### IV. Documentation

##### A. CONNECTIONS (CNNX) Progress Notes

CNNX progress notes must reflect ongoing conversations with caregiver and the child about the activities and opportunities with which the child has been connected as normative experiences and any efforts required to facilitate participation.

##### B. Permanency Hearing Report Enhancements<sup>29</sup>

1. In addition to progress notes, the activities in which a child is participating must be documented in the child's permanency hearing report (PHR). The PHR must include information about steps taken to ensure that the child's foster home or congregate care facility is using the standard in planning and supporting the normative experiences of the child, and documenting the specific opportunities provided for youth to participate and engage in regular, ongoing activities that are age or developmentally appropriate.
2. The caregiver's application of the standard to support regular, ongoing opportunities for the child to engage in age and developmentally-appropriate activities must be documented in the Adjustment and Functioning section of the PHR.<sup>30</sup> To do so, case planners must do the following:
  - a. Select "yes" as the answer to the question, "Have you had a conversation with the caregiver about a reasonable and prudent parenting standard?"
  - b. Once "yes" has been selected, a follow-up question will automatically populate, asking for the case planner to describe the ongoing efforts. Case planners must list the activities in which the child has participated during the period of time covered by the current PHR.

#### V. Costs Associated with the Standard

- A. The cost associated with an activity may be a factor in considering if it is possible for the child to participate. All costs submitted for reimbursement should be reasonable and allowable.<sup>31</sup> The foster care rate received by the foster boarding home or

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<sup>29</sup> 15-OCFS-ADM-19, Planning for a Successful Adulthood: Another Planned Permanent Living Arrangement with a Permanency Resource for Youth 16 Years and Older.

<sup>30</sup> See OCFS Guidance [REVISED Updates to the Permanency Hearing Report](#), 12/23/15.

<sup>31</sup> Foster parents must check with the foster care agency's case planner, supervisor, or director for guidance on the whether the cost will be eligible for reimbursement, prior to making a commitment regarding payment for activities.

congregate care facility is expected to cover most of the expenses involved with the care of the child, including most routine activity expenses and fees.

- B. Foster parents may be reimbursed by the foster care agency under the special payments budget allocation fund for foster youth to participate in youth sports leagues, enroll in a music or art class, and take part in a variety of extracurricular activities. Activities with associated costs that are allowed to be reimbursed as special payments are found in the ACS [Payment Bulletin: Guide to Foster Care Special Payments](#),<sup>32</sup> and by referencing 18 NYCRR 427.3(c).

## VI. Immunity from Liability Associated with the Standard<sup>33</sup>

### A. Section 383-a of the NYS Social Service Law

A caregiver is not liable for injuries to the child that occur as a result of participation in age or developmentally appropriate extracurricular, enrichment, cultural, or social activities if the caregiver has completed the training on the standard that has been approved and issued by OCFS,<sup>34</sup> and was in compliance with the standard as defined in section I. C. 2. of this policy and outlined in Attachment B, *Applying the Reasonable and Prudent Parent Standard: Caregiver Considerations*.

### B. Limiting a Caregivers' Exposure to Liability

Whether or not a caregiver is liable for injuries to the child that occur as a result of participation in age or developmentally appropriate extracurricular, enrichment, cultural, or social activities shall be determined based upon whether such decision to allow participation was made in compliance with the standard and any other factors as required by law. If a child is injured as a result of the decision to allow participation in an activity, a trained caregiver (see section VIII) shall not be liable for such injuries if the decision to allow such participation was made in compliance with the reasonable and prudent parent standard as set forth herein. Nothing in this section shall otherwise limit the ability of a child to bring an action against a caregiver or any other party whose acts or omissions result in injury to such child.

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<sup>32</sup> As of the writing of this policy, the most recent *The Payment Bulletin: Guide to Foster Care Special Payments* was issued in July 2013. The Payment Bulletin is periodically updated. Providers shall reference any amended or successor payment guidance upon its release.

<sup>33</sup> See Section 383-a of the New York State Social Services Law that addresses immunity from liability for application of the reasonable and prudent parent standard and [17-OCFS-ADM-01](#), Immunity from Liability When Applying the Reasonable and Prudent Parenting Standard.

<sup>34</sup> 17-OCFS-ADM-01, Immunity from Liability When Applying the Reasonable and Prudent Parent Standard.

1. Caregivers' participation in OCFS- approved and OCFS-issued training on the definition and application of the standard is required in limiting their exposure to liability and is necessary for a caregiver to be eligible to receive the immunity protection of SSL § 383-a. Additionally, it is recommended that caregivers:
  - a. Document their actions and decision-making process for key decisions related to supporting normative experience or applying the standard as well as their communications with the parties involved in applying the standard for each of the foster children for whom the caregiver is responsible. A foster parent may consider documenting communications in a notebook.
  - b. Become familiar with the past history and current circumstances of the child for whom the caregiver is making reasonable and prudent parenting decisions. The caregiver should obtain and consider both past and current information, including, but not limited to:
    - i. Information on the health of the child;
    - ii. Physical ability and behavioral problems;
    - iii. School and educational experiences;
    - iv. Recreational activities the child is already engaged in; and
    - v. The relationship between the child and the parent(s).
2. It is just as important for caregivers from child care facilities to be familiar with the individual foster child's case history, including health, behavioral, and clinical information, as well as internal agency records, such as incident logs. Such information shall be used to make decisions about the activities and opportunities to which the child is connected and when considering whether an activity or opportunity would be appropriate and in the child's best interest.
3. When a foster parent or caregiver is uncertain about whether to consent to an activity, he/she may contact the child's case planner or the person designated by the provider agency prior to giving consent, and engage the child's parent, guardian, or prior caretaker, and child (if age and developmentally appropriate) in the decision-making process. Permission from a case planner or other agency representative is not needed for many routine activities, such as providing permission for a child to participate in a school day field trip. See Attachment C for more information.
4. If the caregiver, case planner and child (if age and developmentally appropriate) decide to move forward with a decision different from that of the parent, guardian, or prior caretaker's, and the alternative decision is in the best interest of the child, then the caregiver and child may move forward with that alternative

decision. See Attachment C, *Applying the Reasonable and Prudent Parent Standard: Know Before You Say No*, for additional information.

5. The child's case planner or designated agency staff member must document the decision-making process, including communication among the parties, in the case progress notes in CNNX.
6. When an employee in a child care facility is uncertain whether or not to consent to an activity, he/she must contact the child's case planner designated ACS or provider agency staff member. This communication must be documented in the case progress notes in CNNX by the case manager in the child care facility.
7. Additionally, caregivers, parents, guardians or prior caretakers, case planners, and children (if age and developmentally appropriate) are encouraged to reference Attachments A, B, and C for guidance on commonly asked questions and considerations that should be explored prior to making a decision.

C. Best Practices For Reducing the Potential for Exposure to Liability

1. Caregivers are encouraged to collaborate to promote safety and reduce their potential exposure to liability. This includes promoting a partnership and building a relationship, where appropriate, between the parent, guardian or prior caretaker, case planner, the caregiver, and the child (if age and developmentally appropriate) to jointly make decisions that impact and influence the day-to-day activities of the child.
2. This approach should begin at the first FTC, when developing the initial FASP, and continue throughout the child's placement in foster care.
3. Using this approach when the child is first placed is a strategy for establishing guidelines for day-to-day decisions about activities, e.g., riding a bike, playing sports, and other such decisions.
4. Some activities, such as traveling out-of-state on a family vacation or getting a driver's license, may require a larger discussion prior to making the decision as to whether such activity is appropriate for the child.

**VII. Documentation of the Utilization of the Standard**

- A. ACS and provider agency staff must document in CNNX all decisions of which they were notified by the foster parent that were made pertaining to the standard and the child's participation in normative experiences.

- B. The PHR must incorporate and document the steps taken to make certain that the child’s foster home or congregate care facility is following the standard, and that the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities.
- C. Caregivers may consider also documenting other steps they have taken for the safety of the child, such as the purchase or securing of safety equipment for a particular activity (e.g., a bicycle helmet for biking, or shin guards for soccer).
- D. Caregivers in congregate care facilities must document all known activities in CNNX, and in agency logs, including incident logs when applicable.

### **VIII. Training for Implementing the Standard**

- A. There are two (2) primary categories of persons who need training – those who will implement the standard, and those who will need to understand their role in supporting the implementation of the standard.
  - 1. Those who serve a role in supporting the implementation of the standard – case planners and supervisors – can access the training via the Human Services Learning Center (HSLC).
  - 2. All prospective, certified, and approved foster parents and designated staff located in a child care facility, group residence, group home, or agency boarding home, must receive OCFS approved training on implementing the standard in order to have immunity from liability when applying the standard. Foster Parents will have training available through classroom and HSLC. Other caregivers will have access to training via the HSLC STARS.<sup>35</sup> For caregivers who do not have access to the HSLC, an account may be set up through the provider agency STARS training system. Agencies must document caregiver’s completion of the training, where applicable, in the Foster and Adoptive Home Development (FAD) stage in CNNX and in the foster parent’s certification file. Agencies shall maintain a list of designated child care staff who have been trained in the standard.
- B. Each OCFS-licensed institution, group residence, group home, and agency boarding home must have at least one (1) on-site staff person who is designated to apply the standard who has been trained in the application of the standard. All other district or

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<sup>35</sup> See OCFS Deputy Commissioner’s Letter regarding the revised Reasonable and Prudent Parenting Standard training, dated 9/27/2017.



agency staff who are considered decision makers and/or who supervise a designated caregiver under the statute must also receive the OCFS-approved training.<sup>36</sup>

1. Provider agency staff can make the training available to parents, guardians and prior caretakers via STARS, so that they are aware of and actively participate in the implementation of the standard.

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<sup>36</sup> See Preventing Sex Trafficking and Strengthening Families Act, P.L. 113-183.

# Applying the Reasonable and Prudent Parent Standard: Gathering Information to Support Normative Experiences

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Removal from the home is a difficult and traumatic experience for a child.<sup>1</sup> Gathering information to allow for uninterrupted participation in daily activities and agreement on normative experiences are approaches to minimizing that trauma and supporting the healthy development of the child. Below are questions a case worker, case planner, and/or case manager may ask a birth/adoptive parent, guardian, or prior caretaker<sup>2</sup> and child (if age and developmentally appropriate) to support continued, uninterrupted participation in normative experiences. Answers to these questions should be shared with the caregiver and child (if age and developmentally appropriate).

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Is the child currently involved in any school or extracurricular activities? If yes, what are they and at what time (e.g., after school)? Is there a schedule? How does the child get to/from the activity? Does participation in the activity require out of county, state and/or country travel? What is the contact information for the person in charge?

Is there a cost associated with the activity? If so, what is the cost and how has it been paid?

What are the child's interests? For example, does the child have interests in a particular sport, dance, music, etc.? How does the child express those interests?

What are the child's strengths? For example, does the child diligently complete his/her homework assignments; is the child willing to help others?

What are the child's needs? For example, does the child need reassurance when making decisions, or does he/she need reminders to brush his/her teeth before bed?

Does the child attend religious services or is the child involved in any religious activities? If so, where and when?

Are there any dietary restrictions for medical or religious reasons, or for personal preference?

If age appropriate, what time would you like the child to go to bed?

How should the child's current hair cut/style be maintained?

Does the child have any social media accounts (e.g., Facebook, Twitter, Instagram)? If so, are there any restrictions placed on the child's use of those accounts? Do you require that the child provide his/her password so that the usage of the account can be monitored?

Does the child use anyone else's social media accounts?

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<sup>1</sup> For the purposes of this document, the term "child" refers to children, youth, and young adults.

<sup>2</sup> "Prior caretaker" is defined as the individual, such as a grandmother, aunt or family friend, who cared for the child before he or she came into foster care.

## Attachment A

Is the child allowed to visit and/or stay overnight at a friend's house? If yes, which friend(s)?

If age appropriate, is the child allowed to date? Does the child have a current boyfriend or girlfriend? Is the child sexually active?

If age appropriate, does the child have a curfew? If so, what is it?

Does the child work a part-time job? If yes, where and at what time does his/her shift start and end? How does the child get to/from work?

Has the child's job affected his/her grades in school, or the ability to complete homework or other school assignments on time? Has working limited the child's ability to participate in after school activities or athletics? Are these activities important to the child?

If age appropriate, does the child have a driver's license? If yes, do you allow the child to drive?

If age and developmentally appropriate, is the child allowed to travel in a friend's car to/from school and/or activities?

### **For a child who is an adjudicated juvenile delinquent, PINS, or in a Close to Home placement**

Is the child restricted from any community locations? If yes, where and why?

Is the child receiving aftercare services? If yes, what and where?

## Applying the Reasonable and Prudent Parent Standard: Caregiver Considerations

At the core of applying reasonable and prudent parent standard is knowing the child and making decisions on an individual case-by-case basis, with active communication between the caregiver<sup>1</sup>, birth/adoptive parent, guardian or prior caretaker,<sup>2</sup> and the child<sup>3</sup> (if age and developmentally appropriate). Below are questions and considerations a caregiver may want to ask or explore prior to making a determination as to whether or not a child should participate in normative experiences.

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Does this activity promote the child's cognitive, social, emotional, physical, and/or educational development?

How well do I know the child? Has the child only recently been placed in my care, or has he/she been here for several months?

Has the child shown maturity in decision-making and exhibited responsible behavior that is appropriate for their age/ability?

Would I allow my own child to participate in this activity?

Who will be attending the activity?

If appropriate, who will be supervising the activity? Have I met the person? Do I have the person's contact information? Have I shared my contact information with the person supervising the activity and the child?

Does the child understand his/her medical needs and is he/she able to tell others how to help him/her if necessary?

Does the child know who to call and how to respond in case of an emergency?

Have I reviewed any medical or other history in considering whether the activity is in the child's best interests?

Do I have sufficient information about the child's medical/developmental/educational history to make decisions? If I need additional information, do I know where to obtain it?

Does the child have the necessary and appropriate safety equipment, such as bicycle helmet, shin guards, etc.?

Will this activity violate a court order?

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<sup>1</sup> "Caregiver" is defined as the foster parent with whom the child in foster care has been placed; or a designated employee of a child care facility, including the institution, group residence, group home, agency boarding home or supervised independent living program in which the child has been placed.

<sup>2</sup> Whenever we refer to consulting with or engaging a birth/adoptive parent, guardian or prior caretaker, we mean only in those situations where it is appropriate to do so. In cases where parental rights have been surrendered or terminated or there are safety concerns or the parties are not available, such consultation or discussion need not be a part of the decision-making process.

<sup>3</sup> For the purpose of this document, the term "child" refers to children, youth, and young adults.

## Attachment B

Would the activity violate the safety plan? If there is a safety plan, has it been shared with the child?

Will the timing of this activity interfere with a sibling, grandparent, or parental visitation, counseling appointment or doctor's appointment? If so, how will you resolve the conflict?

Does the child understand our parental expectations regarding curfew, seeking and receiving approval for last minute changes in the child's plans, and the consequences for not complying with the expectations?

Does the child understand that his/her participation in this activity is dependent on maintaining all other obligations, such as regular school attendance and completion of school assignments?

If able and appropriate, have I consulted with the child's birth/adoptive parent, guardian or prior caretaker about this/her thoughts/feelings about the child participating in this particular activity?

# Applying the Reasonable and Prudent Parent Standard: “Know” Before You Say “No”

## Introduction

On September 29, 2014, President Obama signed the Preventing Sex Trafficking and Strengthening Families Act (the Act) into law, which amended various provisions of Title IV-E of the Social Security Act. One of the primary purposes of the Act is to improve the safety, permanency, and well-being outcomes of children, youth and young adults<sup>1</sup> involved with the child welfare system. Section 111 of the Act, *Supporting Normalcy for Children in Foster Care*, seeks to advance the well-being of children, youth and young adults by requiring states to support normative experiences for children through the implementation of the reasonable and prudent parent standard (the standard). The standard allows for a caregiver<sup>2</sup> to make parental decisions that maintain the health, safety, and best interest of the child, as well as decisions about the child’s participation in extracurricular, enrichment, cultural and social activities that are age and developmentally appropriate, in a way that protects the child while allowing for normative experiences.<sup>3</sup>

New York State amended state statute and OCFS regulations to implement the Act. These amendments took effect on September 1, 2015.

“Know” Before You Say “No” is intended to answer frequently asked questions that may assist in applying the standard. Caseworkers, case planners, case managers, foster parents, and congregate care staff are encouraged to refer to this Q&A tool when considering a child’s participation in normative experiences.

For additional information pertaining to the application of the standard and population considerations, refer to OCFS regulation 18 NYCRR 441.25 and 15-OCFS-ADM-21.

## Frequently Asked Questions and Answers

### ***If the birth/adoptive parent, guardian or prior caretaker disagrees with a decision, is that the ultimate decision as to whether a child can participate in a normative experience?***

Where appropriate, the input and position of the birth/adoptive parent, guardian or prior caretaker should be considered in the decision making process. This input is dependent on the individual situation. In cases where parental rights have been surrendered or terminated or there are safety concerns or the parties are not available, such consultation or discussion

<sup>1</sup> For the purpose of this document, children, youth, and young adults in foster care will be referred to as “child.”

<sup>2</sup> The Office of Children and Family regulation 18 NYCRR 441.25 defines “caregiver” as the foster parent with whom the child in foster care has been placed; or a designated employee of a child care facility, including the institution, group residence, group home, agency boarding home or supervised independent living program in which the child has been placed.

<sup>3</sup> Normative experiences are age and developmentally appropriate activities and opportunities that promote the healthy cognitive, social, emotional, physical, and educational development of children, youth, and young adults, regardless of their involvement in the child welfare system.

should not be a part of the decision-making process. However, if the caregiver, case worker, case planner, case manager, and child (if age and developmentally appropriate) determine that an alternative decision is appropriate and in the best interest of the child, then the caregiver and child may move forward with that alternative decision. The determination and the basis for such determination must be documented in the child's case record.

***If the child gets hurt while participating in an activity that a caregiver has approved, is a caregiver liable?***

In New York State, where a foster child is injured as a result of an activity carried out as part of the standard, the New York State common law standards for negligence, intentional wrongdoing and gross negligence, as evolved over the years in the case law of this state, would apply. There is no separate statutory liability standard applicable to caregivers on the subject.

However, the following guidance is offered on how a caregiver can take steps to limit potential exposure to liability and, even more importantly, to limit the potential for injury to a child in foster care.

- Inquire about and be familiar with OCFS policies that relate to the application of the reasonable and prudent parent standard;
- Follow the guidance provided by the applicable LDSS concerning the particular child;
- Participate in available trainings on the subject of reasonable and prudent parenting;
- If there is uncertainty regarding a particular issue concerning a child's activities, foster parents should consult with the child's case worker and facility staff should consult with appropriate supervisory staff on such decisions regarding the child;
- Be aware of the positions and wishes of the birth parents, guardians or prior caretakers, and consult with them as appropriate;
- Discuss the activity with the child and if the activity occurs, receive feedback from the child and monitor for changes in child's behavior, health or other functions;
- Record all communications relating to the consideration and application of the reasonable and prudent parent standard in relation to a particular child;
- Staff in congregate care facilities applying the standard should be familiar with the foster child's case record, including, but not limited to, relevant health, behavioral and clinical information;
- Be aware of medical reports or court orders that limit activities and apply the reasonable and prudent parent standard in a manner consistent with such report or order;
- For foster parents, receive and be familiar with placement information that must be provided to the foster parent regarding a foster child placed in the foster home as required by OCFS regulation.<sup>4</sup>
- Make sure that foster children receive medical checkups as prescribed by OCFS regulations and medical directives;
- Be aware of and comply with the child's school policies on athletic injuries.

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<sup>4</sup> Office of Children and Family Services. *New York State Foster Parent Manual*, p.13.  
<http://ocfs.ny.gov/main/publications/Pub5011.pdf>

## Attachment C

Additionally, caregivers are encouraged to refer to 15-OCFS-ADM-21 for guidance on how a caregiver can take steps to limit potential exposure to liability and, even more importantly, limit the potential for injury to a child in foster care.

Additionally, caregivers, birth/adoptive parents, guardians or prior caretakers, case workers, case planner, case managers, and children (if age and developmentally appropriate) are encouraged to utilize all of the attachments included with 15-OCFS-ADM-21 for guidance on commonly asked questions and considerations that should be explored prior to making a decision.

### ***Is a congregate care staff person required to contact the Justice Center when a child is injured while participating in an approved activity?***

Depending on the severity of the injury, congregate care staff may be required to contact the Justice Center if a child is injured while participating in an approved activity.

### ***Is a caregiver allowed to sign permission slips for school activities (e.g., field trip, sports team)?***

The first consideration is to be aware of the policy of the school district as to who may sign the permission slip on behalf of the child. If the school district allows caregivers to sign, subject to the considerations referenced in the next paragraph, a caregiver may sign permission slips allowing a child to participate in school activities. For example, if the child is attending a school trip to a museum, the caregiver may move forward with signing the permission slip without seeking out the permission of the birth/adoptive parent, guardian or prior caretaker. If an activity involves travel outside of the county or state, the caregiver may grant permission but must notify the case worker, case planner, or case manager prior to the event occurring. If the school activity involves travel outside of the country, the local department of social services commissioner or designee must be notified prior to the event occurring and must consent.

The caregiver must apply the reasonable and prudent parent standard when determining participation in the activity, including but not limited to, assessing the potential risk for injury from the activity, ability to comply with the rules set forth by the schools as it pertains to medical restrictions, understand the child's physical and/or cognitive ability, and confirm that participation in such activity does not conflict with any mandatory court appearance, court ordered visitation, or violate the child's safety plan. Caregivers should refer to Attachment B: Applying the Reasonable and Prudent Parent Standard: Caregiver Considerations when determining whether a child may participate in an activity. Additionally, if appropriate, the birth/adoptive parent, guardian or prior caretaker, and child (if age and developmentally appropriate), should be engaged prior to making a decision.



***Is a caregiver allowed to enroll and sign permission slips for participation in a sport or team activity (e.g., dance, cheerleading, drama club) outside of the school?***

The first consideration is who is authorized to enroll or sign permission slips as established by the organization that is operating or overseeing the sport or team activity. If allowed by the rules of the particular activity, a caregiver may enroll and sign permission slips for a child to participate in an activity outside of the school.

When determining whether to allow the child to participate in the activity, the caregiver must apply the reasonable and prudent parent standard when determining participation in the activity, including but not limited to, assessing the potential risk for injury from the activity, ability to comply with the rules set forth by the activity as it pertains to medical restrictions, understand the child's physical and/or cognitive ability, and confirm that participation in such activity does not conflict with any mandatory court appearance, court ordered visitation, or violate the child's safety plan. Additionally, the caregiver should, where appropriate, engage the birth/adoptive parent, guardian or prior caretaker and child (if age appropriate) in determining the child's participation in the activity. When making a decision, all should consider how participation in this activity will continue should the child is returned to the birth/adoptive parent, guardian or prior caretaker.

Caregivers should refer to 15-OCFS-ADM-21, Attachment B: *Applying the Reasonable and Prudent Parent Standard: Caregiver Considerations* when determining whether a child may participate in an activity.

***Is a caregiver allowed to permit a child to travel with their team for sports or other activities (e.g., dance, cheerleading, theatre)?***

Prior to consenting to such travel, the caregiver must apply the reasonable and prudent parent standard, including, where appropriate, engaging the birth/adoptive parent, guardian or relative caretaker and child (if age appropriate) in determining the child's participation in the activity. For travel outside of the county or state, the case worker, case planner, or case manager must be notified prior to the event occurring. If the activity involves travel outside of the country, the caregiver should confirm that such travel does not conflict with court orders and consider the child's medical needs and behavioral history. In addition, the local department of social services commissioner or designee must be notified prior to the event occurring and consent to such travel.

For travel outside of the country, caregivers should consider if the child has relatives in the country of travel as well as any potential risks pertaining to child abduction. Caregivers are encouraged to refer to the U.S. Department of State International Parent Child Abduction website for more information:

<http://travel.state.gov/content/childabduction/english/preventing/tips.html>

## Attachment C

Any concerns regarding travel outside of the country should be discussed with the case worker, case planner, case manager and, as appropriate, the local department of social services commissioner or voluntary agency executive director.

### ***Is a child in foster care allowed to travel out of county, state, and/or country with a caregiver?***

The caregiver must apply the reasonable and prudent parent standard for travel out of county, state and/or country with the child. This includes, where appropriate, engaging the birth/adoptive parent, guardian or prior caretaker and child (if age appropriate) in determining the child's ability to travel. The caregiver should consider at minimum the length of time in which the child has been with the caregiver/family, the child's comfort in traveling with the caregiver/family, and if the travel will conflict with any mandatory court appearances and/or court ordered visitations. For travel outside of the county or state, the case worker, case planner, case manager must be notified prior to the event occurring. If the activity involves travel outside of the country, the caregiver should confirm that such travel does not conflict with court orders and consider the child's medical needs and behavioral history. In addition, the local department of social services commissioner or designee must be notified prior to the event occurring and consent to such travel.

For travel outside of the country, caregivers should consider if the child has relatives in the country of travel and any potential risks pertaining to child abduction. Caregivers are encouraged to refer to the U.S. Department of State International Parent Child Abduction website <http://travel.state.gov/content/childabduction/english/preventing/tips.html>. Any concerns regarding travel outside of the country should be discussed with the case worker, case planner, case manager and, as appropriate, the local department of social services commissioner or voluntary agency executive director.

### ***How are the costs associated with various activities to be paid?***

The rate received by the foster boarding home or congregate care facility is expected to cover most of the expenses involved with the care of the child, including most routine activity expenses. Some unusual costs may be allowable as special payments subject to the approval of the applicable LDSS.<sup>5</sup> For these more expensive activities, foster parents should work with their LDSS.

### ***Are background checks/clearances necessary in order for a child to attend a party (e.g., birthday, graduation), visit with a friend, or stay overnight at a friend's house?***

Background checks/clearances are not legally necessary in order for the child to attend a party, visit with a friend, or stay overnight at a friend's house. SCR clearances under Social Services Law (SSL) §424-a and criminal history checks under SSL §378-a are not authorized for these

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<sup>5</sup> 18 NYCRR 427.3

## Attachment C

individuals. In all instances, the caregiver must apply the reasonable and prudent parent standard.

For older children in foster care under the age of 18 who seek to attend a party unsupervised by the caregiver, the caregiver should consider the child's age and maturity to determine if this is developmentally appropriate, as well as the child's history with responsible behavior. Additional factors to consider include who will be in attendance at the party and where the party will be located. The caregiver should have the contact information of the adult supervising the party.

For visiting with a friend, the caregiver should consider the child's age and maturity, the child's history with responsible behavior, whether the caregiver has met the child's friend, knowledge about the friend (e.g., the friend's positive or negative behavior), contact information for the friend (e.g., home address, cell phone number), and the location in which the child will be visiting the friend.

For an overnight stay at a friend's house, the caregiver should consider the child's age and maturity, the child's history with responsible behavior; the child's mental health history, including any triggers that may endanger the child or others in the host household; meeting in-person with the parents or other responsible adults of the family with whom the child will be staying overnight; determining any other individuals who will be in the home during the overnight stay and ascertaining, to the extent possible, that they will not endanger the child's safety; sharing all emergency contact information with the host family; and, knowing where the child will be sleeping.

### ***Is a child in foster care allowed to access social media (e.g., Facebook, Twitter, Snapchat, Instagram)?***

There is no legal right to access to social media, but it may be allowed on a case by case basis as discussed below.

The caregiver must apply the reasonable and prudent parent standard, including engaging, where appropriate, the birth/adoptive parent, guardian or prior caretaker, and child (if age appropriate), in determining the child's access to social media. The caregiver should consider the child's age and maturity, whether the activity is developmentally appropriate, the child's history with responsible behavior, the child's safety (e.g., whether the child is a victim of sex trafficking), if there is a court order or order of protection that limits who the child may interact with; monitoring the child's social media activity by limiting his or her use of social media to an open or public space, connecting with the child via the online platform, obtaining the child's user information (username and password) for his/her social media account(s); and teaching the child about safe Internet practices, such as not chatting or meeting with strangers and not sharing personal information online (e.g., Social Security number, address).

***Is a child in foster care allowed to have a cell phone?***

While there is no right of a child in foster care to a cell phone, there is also no prohibition against a foster child having one.

The caregiver must apply the reasonable and prudent parent standard in determining whether or not a child is allowed to have a cell phone, including, where appropriate, engaging the birth/adoptive parent, guardian or prior caretaker and child (if age appropriate). The caregiver should consider the age and maturity of the child, the child's history with responsible behavior, if developmentally appropriate, the child's safety (e.g., the child is a victim of sex trafficking), if the child travels a long distance to/from school, has a part time job, if there is a court order or order of protection that limits who the child may interact with, access to social media via the cell phone, and monitoring text messages.

Regulatory standards relating to the use of telephones by children in foster care are set forth in OCFS regulation 18 NYCRR 441.18(b).

***Is a caregiver allowed to cut or style a child's hair or arrange for someone else to do so?***

A hair style may have cultural significance for the child and/or the child's birth/adoptive parent, guardian prior caretaker or family. Understanding this, a caregiver should not cut or style, or consent to the cutting or styling, of a child's hair without the engagement, if appropriate, of the birth/adoptive parent, guardian or prior caretaker, or familiarity with the cultural norms of the child and/or the child's family. At the time of removal or when completing the initial Family Assessment and Services Plan (FASP), the case worker, case planner, case manager should obtain from the birth/adoptive parent, guardian or prior caretaker and child (if age appropriate) information as to how the child's hair should be cut, styled, and maintained. If the child is older and requests that his/her hair be cut or styled differently, the caretaker must apply the reasonable and prudent parent standard, including engaging, if appropriate, the birth/adoptive parent, guardian or prior caretaker, and considering the age and maturity of the child, whether the request is developmentally appropriate, whether there is a medical reason (e.g., lice), and the child's desire for changing the cut/style of his/her hair.

***Can a caregiver determine the child's bedtime and curfew?***

A caregiver must apply the reasonable and prudent parent standard when determining a child's bedtime and curfew. This includes considering the child's age and maturity, the child's history of responsible behavior (e.g., history of curfew violations), the child's safety (e.g., the child is a victim of sex trafficking), and, where appropriate, engaging the birth/adoptive parent, guardian or prior caretaker and child (if age appropriate) when determining the bedtime and/or curfew for a child.

***Is a child in foster care allowed to stay with a babysitter?***

A child in foster care is allowed to stay with a babysitter for a limited time under certain conditions. OCFS regulation, 18 NYCRR 443.3(b)(3) states that foster parents will never leave foster children under the age of 10 alone without competent adult supervision or foster children above that age except as might reasonably be done by a prudent parent in the case of his or her own children. Regardless of the child's age, the reasonable and prudent parent standard must be applied when selecting a babysitter. A caregiver should consider the age and development of the child; the child's mental health history, including any triggers that may endanger the child or others in the household; the child's comfort with the babysitter; the competence and maturity of the babysitter; and the babysitter's experience in caring for children.

A background check/clearance is not legally required for a babysitter. SSL §424-a does not authorize SCR screening, and SSL §378-a does not authorize a criminal history record check of a babysitter.

***Is a child in foster care allowed to attend events without the caregiver's supervision?***

A child in foster care is allowed to attend events without the caregiver's supervision. See the standard set forth above for foster parents stated in 18 NYCRR 443.3(b)(3). The adult providing supervision does not have to be the foster parent or caregiver. For all children, regardless of age, the reasonable and prudent parent standard must be applied to determine if participation in the event is appropriate.

When applying the reasonable and prudent parent standard, the caregiver should consider the age and maturity of the child, the child's history with responsible behavior, whether the activity is developmentally appropriate, the caregiver's familiarity with the child, verifying the contact information (e.g., cell phone number) for the adult who will be supervising the event, traveling with the child to the event to meet face-to-face the person(s) supervising/hosting the event, and knowing the location of the event. Additionally, the caregiver should provide to the child and the adult supervising the event his/her contact information in case of an emergency.

***Is a child in foster care allowed to stay home alone in the foster home for a limited time?***

OCFS regulation 18 NYCRR 443.3(b)(3) states that foster parents will never leave foster children under the age of 10 years without competent adult supervision or foster children above that age except as might reasonably be done by a prudent parent in the case of his or her own children. For a child 10 years of age or older, the caregiver must apply the reasonable and prudent parent standard to determine whether a child is allowed to stay home alone for a limited time. The caregiver should consider the age and maturity of the child, the child's history with responsible behavior, if developmentally appropriate, familiarity with the child, and the child's comfort with being home alone.

***Is a child in foster care allowed to babysit?***

A child in foster care may be allowed to babysit, but cannot be required to do so. In determining whether to allow a child in foster care to babysit, the caregiver should consider the age and maturity of the child, the child's history with responsible behavior, any behavioral issues that could put other children at risk of harm, whether it is developmentally appropriate, and the child's comfort with being a babysitter.

***Is the child in foster care allowed to have his/her picture taken for the school yearbook, school and non-school sports team, other extracurricular activities (e.g., dance club, theatre)?***

A child in foster care is allowed to have his/her picture for a school yearbook, school and non-school sports team, and other extracurricular activities, etc. as long as there is no indication that the child is in foster care.

***Is a child in foster care allowed to go to overnight summer camp?***

Permission for a child in foster care to participate in overnight summer camp must be granted by the applicable local department of social services commissioner or designee (18 NYCRR 431.13). Prior to seeking permission, caregivers are encouraged, where appropriate, to engage the birth/adoptive parent, guardian or prior caretaker, and child (if age appropriate) in determining whether a child should participate in overnight summer camp. Caregivers must apply the reasonable and prudent parent standard when considering overnight summer camp, including the child's interest in the overnight summer camp; the age and development of the child; the child's mental health history, including any triggers that may endanger the child or others at the camp; and the child's comfort with staying out overnight.

***Is a child in foster care allowed to attend prom and post-prom activities?***

In applying the reasonable and prudent parent standard, a determination can be made as to whether a child may go to the prom and participate in post-prom activities. The caregiver should consider the child's age and maturity, the child's history of responsible behavior (e.g., performance in school, returning home by curfew), and engage (where appropriate) the birth/adoptive parent, guardian or prior caretaker and child in the decision-making. If it is determined that the child is not allowed to attend the prom and/or post-prom activities, the reason for this determination should be explained to the child.

Reasonable costs associated with a prom (e.g., dress or tuxedo) should not serve as a barrier to the youth attending the prom. Caregivers should contact the child's case worker, case planner, or case manager to discuss independent living or special payments available pursuant to OCFS regulation 18 NYCRR 427.3(c)(2) funds that may be available to support participation in the prom.

***Can a child in foster care have a part-time job?***

Having a part-time job is a normative experience for adolescents. OCFS regulation 18 NYCRR 441.10 recognizes the importance and value of work experiences for youth in foster care as they offer opportunities for beneficial skill development. Caregivers must apply the reasonable and prudent parent standard when considering whether a child is ready for a part-time job. Considerations should include the age and maturity of the child, the child's history of responsible behavior, the type of job, how the child will travel to/from the job, the number of hours and time in which the child shall work, how the job may impact the child's ability to perform academically, and the types of skills the child will develop from a part time job.

***Is a child allowed to obtain a driver's license?***

New York State law states that once a child turns the age of 16, he or she is eligible to pursue a driver's license. For those children in foster care who are under the age of 18, a parent or legal guardian must sign the consent section of the driver's license application. When determining whether or not a child who is age 16 or older should be able to obtain a driver's license, a caregiver must apply the reasonable and prudent parent standard. The caregiver should consider the maturity of the child, the child's history with responsible behavior, familiarity with the child, and insurance coverage for the child (not offered by the Office of Children and Family Services). Additionally, the caregiver should engage the child and, if appropriate, the birth/adoptive parent, guardian or prior caretaker in determining whether or not the child has permission to pursue a license.

***Is a child in foster care allowed to travel alone via public transportation?***

A caregiver may grant a child in foster care permission to travel alone via public transportation. Prior to this determination, the caregiver should consider the age and maturity of the child, if it is developmentally appropriate, the child's history with responsible behavior, familiarity with the child, the distance the child is traveling, the reason for which the child is traveling, and the child's comfort with traveling alone via public transportation. Additionally, the caregiver should engage the child and, if appropriate, the birth/adoptive parent, guardian or prior caretaker when determining whether or not to permit a child to travel alone on public transportation.

***Is a child in foster care allowed to ride in a car without the caregiver to/from school and other activities (e.g., travel home after sports practice)?***

A caregiver may permit a child to ride in a car (including a friend's car) without the caregiver to/from school and other activities. The caregiver must apply the reasonable and prudent parent standard when determining whether or not to allow a child to ride in a friend's car. The caregiver should consider the age and maturity of the child, the child's history with responsible behavior, if developmentally appropriate, familiarity with the child, familiarity with the child's friend, and the distance that is being traveled. Additionally, the caregiver should engage (where appropriate)

the birth/adoptive parent, guardian or prior caretaker when determining whether or not to permit a child to ride in a friend's car to/from school and other activities.

***Is a caregiver allowed to consent to piercings and tattoos?***

A caregiver may not provide consent for piercings or tattoos of a child in foster care. Public Health Law §460-a requires that a person be age 18 years or older in order to obtain piercings and tattoos. For those under the age of 18 years, proof of consent from a parent or legal guardian must be provided.

***Is a child in foster care allowed to go hunting?***

Environmental Conservation Law §§ 11-701 and 11-929 set forth the standards for the age at which a child may hunt, what weapons may be used, where consents are required, and the need for adult supervision. Even if the child in foster care is legally authorized to hunt, where appropriate, the birth/adoptive parent, guardian or prior caretaker should be consulted before he or she is given permission to do so. In addition, the caregiver must obtain prior permission from the local department of social services commissioner or designee before allowing a foster child in the caregiver's care to hunt. Additionally, the caregiver must apply the reasonable and prudent parent standard in determining whether to allow a child to participate in hunting; this includes considering the child's age and maturity, whether the activity is developmentally appropriate, the child's history with responsible behavior, the child's history with hunting, supervision of the child while hunting (if the child is under the age of 16), and familiarity with the child.

***Is a child in foster care allowed to operate an ATV?***

Vehicle and Traffic Law § 2410 is very specific and limiting regarding the operation of ATVs by children under the age of 18. Before making any determination regarding the foster child's operation of an ATV, Vehicle and Traffic Law § 2410 must be consulted. It may also be advisable for the caregiver to confirm his or her understanding of the law with local law enforcement and document law enforcement's response. If it is determined that the age and qualifications of the child and the site to be used meets the legal specifications, the caregiver must be certain that all necessary safety training is completed, the child has the appropriate protective gear, and there is appropriate supervision by a qualified adult during the child's operation of the ATV.

In applying the reasonable and prudent parent standard to a decision regarding the child's operation of an ATV in accordance with Vehicle and Traffic Law, the following characteristics of the child must be considered: the child's age and maturity, whether the activity is developmentally appropriate, the child's history with responsible behavior, and the child's experience with operating an ATV. The caregiver should engage (where appropriate) the child's birth or adoptive parent or guardian, and the case worker, case planner, or case manager, in making this decision.