



Office of Children and Family Services

Kathy Hochul
Governor

52 WASHINGTON STREET
RENSELAER, NY 12144

Sheila J. Poole
Commissioner

Informational Letter

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To:	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
Issuing Division/Office:	Division of Youth Development and Partnerships for Success Office of Strategic Planning and Policy Development
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Subject:	Supervised Settings as Expanded Placement Options for Older Youth in Foster Care
Suggested Distribution:	Directors of Social Services Foster Care Supervisors Child Protective Services Supervisors Child Welfare Supervisors
Contact Person(s):	See section IV.
Attachments:	None

Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
08-OCFS-ADM-07		18 NYCRR 427.2 18 NYCRR 441.21 18 NYCRR 449.1(e), 449.1(g), 449.2, 449.3, 449.3(h), 449.4(b), 449.4(c)	Social Services Law §371(22) Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351) Family First Prevention Services Act (P.L. 115-123) Social Security Act §472(c)(2)(B) Social Security Act §472(k)(1)(A) Social Security Act §472(k)(2)(C)		ACYF-CB-PI-10-11 ACYF-CB-PI-18-07

I. Purpose

The purpose of this Informational Letter (INF) is to inform local departments of social services (LDSSs) and voluntary authorized agencies (VAs) of expectations for the forthcoming Supervised Setting Programs (SSPs) that will allow older youth in foster care to live independently. Such settings are Qualified Residential Treatment Program (QRTP) Exceptions (also referred to as specified settings¹) under the federal Family First Prevention Services Act (FFPSA); therefore, eligible youth in foster care ages 18-21 residing in such settings may remain in those settings and be eligible for reimbursement under Title IV-E of the Social Security Act (Title IV-E) on and after September 29, 2021.²

This INF is the first Office of Children and Family Services (OCFS) guidance document that will be released regarding SSPs. OCFS will release an Administrative Directive (ADM) providing further guidance and required actions for LDSSs and VAs to take to apply for and operate SSPs, and to approve or certify supervised settings.

II. Background

Many young adults face challenges as they leave their homes and become independent, including those in foster care. Youth must develop skills critical to self-sufficiency, including financial literacy, accessing services (medical, mental health, and others), securing housing, and navigating day-to-day life. New York State (NYS) offers an array of placement options intended to provide youth in foster care with opportunities to develop these skills through normative experiences. Nevertheless, youth may not always feel empowered to take responsibilities, manage risks, and experience everyday successes and failures in the way their peers outside of foster care do. Youth may feel frustrated by a lack of autonomy and decide to leave foster care before they are fully ready for independence. Such actions illustrate the importance of treating older youth in care as young adults and supporting them in living arrangements that more closely align with the range of options available to young adults who are not in care. By providing such expanded independent living opportunities, more young people may choose to remain in foster care while receiving the ongoing support and services they need to fully prepare for a successful transition to adulthood.

Federal law has long recognized the importance of providing normative independent living experiences to older youth in foster care. The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections) authorized states to develop opportunities for youth to live in supervised independent living settings with supervision and support. Federal guidance released after the law's enactment (ACYF-CB-PI-10-11) reads as follows:

“...a title IV-E agency has the discretion to develop a range of supervised independent living settings which can be reasonably interpreted as consistent with the law, including whether or not such settings need to be licensed and any safety protocols that may be needed. For example, a title IV-E agency may determine that when paired with a supervising agency or supervising worker, host homes, college dormitories, shared housing, semi-supervised apartments, supervised apartments or another housing arrangement meet the supervised setting requirement. We encourage the title

¹ A specified setting is defined in Social Services Law §371(22) as: a residential placement in the community approved and supervised by an LDSS or VA in accordance with the regulations of OCFS to provide a transitional experience for older youth in which youth may live independently. A supervised setting includes, but is not limited to, placement in a Supervised Independent Living Program.

² Federally, a child-care institution includes a supervised setting in which a youth who has attained the age of 18 is living independently in accordance with such conditions established by the secretary of DHHS in regulation. (Social Security Act §472(c)(2)(B))

IV-E agency to be innovative in determining the best living arrangements that could meet an older child's needs for supervision and support as he/she moves toward independence.”

The federal Family First Prevention Services Act (FFPSA) went a step further to promote independent living for youth in foster care. FFPSA prohibits Title IV-E reimbursement beyond 14 days for youth in foster care who are not placed in a foster boarding home unless such setting qualifies as a “specified setting,” which includes a supervised setting.³ Recognizing that the needs of certain special populations of youth are best met in settings that are neither a foster boarding home nor a QRTP, FFPSA also allows for several placement types to be classified as “QRTP Exceptions” (also referred to as specified settings) and remain Title IV-E eligible. QRTP Exceptions include:

“...in the case of a youth who has attained 18 years of age, an approved supervised setting in which the youth is living independently.”⁴

Federal FFPSA guidance (ACYF-CB-PI-18-07) repeats the language from Fostering Connections to describe such supervised settings, including encouraging states to be innovative in meeting the needs of older youth as they move toward independence.

Prior to the enactment of Fostering Connections, NYS authorized and continues to authorize the operation of Supervised Independent Living Programs (SILP).⁵ SILPs remain an important placement option for youth in need of the level of supervision and support offered while residing in a SILP unit.⁶

Recognizing that certain youth may benefit from even greater levels of independence, NYS is establishing a range of independent living settings classified as “supervised settings.” In NYS, supervised settings are the individual housing sites or units approved or certified as part of a Supervised Setting Program (SSP). SSPs build on NYS's experience with SILPs by offering LDSSs and VAs the opportunity to approve or certify a range of supervised settings in which youth may be eligible for Title IV-E foster care maintenance payments in accordance with the FFPSA.

There will be three types of SSPs: Community-Site SSP, College-Owned Housing SSP, and SILP. Each type of SSP includes different types of supervised settings (individual housing sites/units) where youth may reside. For example:

An LDSS or VA authorized to operate a Community-Site SSP may then approve supervised settings including but not limited to

- apartments,
- room rentals,
- shared housing with individuals not in foster care; and,
- living with kin (relative or person with whom the youth has a positive relationship and who is not the youth's approved foster parent).

An LDSS or VA authorized to operate a College-Owned Housing SSP may approve

- dormitories; and,
- houses, apartments, or other residential homes owned, operated, or contracted by the college, university, or vocational school.

An LDSS or VA authorized to operate a SILP may certify

- a SILP unit.

³ Social Security Act §472(k)(1)(A).

⁴ Social Security Act §472 (k)(2)(C).

⁵ 18 NYCRR Part 449.

⁶ 18 NYCRR 449.1(g)).

LDSSs and VAs have discretion to expand on the supervised settings listed above if such settings meet the standards set forth in 18 NYCRR Part 449 and OCFS guidance.

As NYS prepares for FFPSA implementation on September 29, 2021, all LDSSs and VAs must assess the needs of all older youth in care as well as their own readiness and commitment to supporting such youth in an SSP. SSPs are a groundbreaking opportunity to leverage federal financial support to provide older youth in care with meaningful independent living experiences as they prepare to transition out of foster care.

III. Program Implications

Supervised settings (as listed above) will be new placement options for older youth in foster care authorized under the newly established SSPs. Supervised settings are QRTP exceptions under FFPSA and are therefore Title IV-E eligible placement settings for youth ages 18 and older. Youth ages 16 and 17 are permitted to reside in an approved or certified supervised setting but are not eligible for Title IV-E reimbursement until they are 18 years old in accordance with federal law. However, Title IV-E reimbursement for eligible youth 16 and 17 years of age residing in a SILP on September 29, 2021, will continue. Youth with any permanency goal may participate in an SSP.

At the time of this INF's release, only new and existing SILP units may qualify as supervised settings. The reason that only SILP units may qualify is because CONNECTIONS only allows OCFS staff to enter facility information for supervised settings in the Foster and Adoptive Home Development (FAD) stage, which is necessary to trigger financial reimbursement. CONNECTIONS changes are in development that will enable VAs to enter this information for any supervised setting, including SILP units. Title IV-E reimbursement for eligible youth who are residing in, moving between, and entering new and existing SILP units **will not** be interrupted during this process.

- Until CONNECTIONS changes are complete, VAs must contact CONNECTIONS Implementation Staff (within the respective OCFS regional office) if seeking to certify any new SILP units so that the facility information can be entered, and Title IV-E reimbursement may be available for eligible youth. VAs may not approve any other type of supervised setting (i.e., apartments, room rentals, living with a relative) until CONNECTIONS changes are complete and OCFS policy guidance has been issued.
- When CONNECTIONS changes are complete, VAs will be responsible for entering facility information for SILP units and all other types of supervised settings that the VA has been given authority by OCFS to approve.

OCFS will release an Administrative Directive informing the field when the CONNECTIONS changes are live. Such OCFS guidance will also set forth specific application requirements and program standards for all SSP types. When the guidance is released, all LDSSs and VAs will be eligible to apply to OCFS for authorization to operate one or more type of SSPs. If authorized, the LDSS or VA may approve youth in foster care ages 16-21 to live independently in an approved or certified supervised setting with supervision and support.

State law authorizes LDSSs to operate an SSP and approve or certify supervised settings. However, note that at the time of this INF's release, CONNECTIONS, the Welfare Management System (WMS) and the Benefits Issuance Control System (BICS) cannot recognize supervised settings approved or certified by LDSSs. Therefore, while LDSSs may apply to OCFS for authorization to operate SSPs, there is no mechanism to reimburse LDSSs for such placements. LDSSs are encouraged to contract with VAs to operate SSPs at this time.

An SSP is a youth-driven program. Youth are empowered to locate housing, identify and communicate their preferences, and exercise individual responsibility in day-to-day living. It is critical that LDSSs and VAs recognize that youth are preparing for independent living outside of foster care, and that youth may choose to leave care at any time once they are 18 years old. An SSP is intended to prepare for this possibility by allowing youth to experience normative independent living with support and guidance from the LDSS or VA only as needed and in accordance with standards set forth in regulations and OCFS policy. LDSSs and VAs should be open-minded to this new program concept and have strong engagement skills and experience with transition age youth.

There will be three types of SSPs, each including their own supervised settings (individual sites or units), as follows:

1. Community-Site SSP

The Community-Site SSP offers youth the greatest amount of independence with support and limited supervision from the LDSS or VA. Therefore, it is critical that youth wishing to reside in such a setting have the appropriate skills and maturity for this level of independence. The *Supervised Setting Readiness Assessment* form, under development by OCFS, must be completed with the young person prior to placement in these settings. The youth will be primarily responsible for locating an appropriate supervised setting and deciding whom to live with, with caseworker support as needed.

Supervised settings within a Community-Site SSP include, but are not limited to

- room rentals,
- apartments,
- shared housing with individuals not in foster care; and,
- living with kin (relative or person with whom the youth has a positive relationship and is not the youth's approved foster parent).

LDSSs and VAs have discretion to expand on this list if the setting meets the standards set forth in 18 NYCRR Part 449 and further OCFS policy guidance.

2. College-Owned Housing SSP

The term "college-owned" includes settings that are owned, operated, or contracted by colleges, universities, and vocational schools. It is critical that LDSSs and VAs engage all older youth in foster care in awareness and planning for post-secondary educational opportunities, including financial aid. An LDSS or VA must assist youth in enrolling in post-secondary education regardless of whether they apply to OCFS and receive authority to operate a College-Owned Housing SSP.

A College-Owned Housing SSP enables Title IV-E reimbursement for eligible youth ages 18 to 21, but under no circumstances is Title IV-E eligibility required for youth to enroll in post-secondary education.

Unlike the other SSP types, there is no readiness assessment required for youth to be approved to reside in College-Owned Housing supervised settings. There is also no physical inspection required of the supervised settings because such settings are already subject to the approval for safety standards by the post-secondary educational institution. Supervision requirements remain in effect; therefore, the LDSS or VA is responsible for conducting casework contacts in accordance with standards set forth in regulation.⁷ The LDSS or VA must also provide for supports and services as necessary to meet the youth's needs related to safety, permanency, and well-being while

⁷ 18 NYCRR 449.3(h).

preparing for, and residing in, college-owned housing. Supervised settings within a College-Owned Housing SSP are

- dormitories; and
- houses, apartments, or other residential homes owned, operated, or contracted by the college, university, or vocational school.

Off-campus housing that is not directly owned, operated, or contracted by the educational institution to provide housing for students does not fall under this type of SSP. Rather, such housing would be approved under a Community-Site SSP in which case the *Supervised Setting Readiness Assessment* form must be completed.

3. Supervised Independent Living Program (SILP)

Authority to operate a SILP⁸ predates this INF. The new classification as an SSP, however, will allow SILPs to qualify as a QRTP exception. Therefore, youth who reside in a SILP unit before, on, or after September 29, 2021, may be eligible for Title IV-E reimbursement. As stated above, OCFS staff will make the necessary entries into CONNECTIONS until changes are made to allow VA staff to do so. VAs must contact OCFS Implementation Specialists (within the respective OCFS regional office) for the proper entries to be made for any new SILP units the VA is certifying until the CONNECTIONS changes are live, to receive financial reimbursement.

The process for applying to OCFS for operation of a SILP has not changed. Administrative Directive, [08-OCFS-ADM-07](#), and 18 NYCRR Part 449 still dictate the requirements for approval and operation of a SILP. LDSSs and VAs operating SILPs do not need to reapply for authorization but should be aware of new, regulatory requirements in 18 NYCRR Part 449 for certification of SILP units and regarding service provision to youth.

Supervised settings within a SILP are

- SILP units (1-5 bed units).

SSP authority and supervised setting approval/certification

LDSSs and VAs may apply to OCFS to operate one or more of the above SSP types. OCFS will indicate in its written approval which type(s) of SSP(s) the LDSS or VA is authorized to operate. The LDSS or VA may only approve or certify supervised settings (individual sites or units listed above) associated with the specific SSP type that they are authorized to operate. Unlike the other QRTP exceptions, application for SSPs will not be made through the New York State 29-I Voluntary Foster Care Agency (VFCA) Health Facilities Licensure portal (29-I portal). Rather, the application will be submitted to the appropriate OCFS regional office and must contain the informational elements required by regulation for SSP application.⁹ Forthcoming OCFS policy guidance will further expand on the information required specific to the type of SSP(s) for which approval is sought.

LDSSs and VAs approved by OCFS to operate an SSP must approve or certify the supervised settings in which the youth will live. Community-Site supervised settings are approved and SILP units are certified in accordance with regulatory requirements. College-Owned Housing supervised settings are not approved or certified by the LDSS or VA, as such settings are already subject to approval by the post-secondary educational institution.

All supervised settings will be documented by the VA in CONNECTIONS in the FAD stage as “Supervised Settings.” once CONNECTIONS changes are made to allow for this.

⁸ 18 NYCRR 449.1(e).

⁹ 18 NYCRR 449.2.

Except for College-Owned Housing, there are three steps that must occur before a youth may reside in a supervised setting as follows:

1. Assess the youth's readiness for the SSP using the forthcoming *Supervised Setting Readiness Assessment* form.
2. Approve or certify the individual supervised setting in which the youth seeks to reside, in accordance with 18 NYCRR Part 449.
 - A Community-Site supervised setting must be approved using the forthcoming *Community-Site Physical Safety Checklist*.
 - The OCFS-4884, *Fire Safety Inspection Guidelines Per NYS Regulation 449*, may continue to be used to meet the physical safety inspection requirements for a SILP unit.
3. Complete the forthcoming *Supervised Setting Approval and Placement Agreement* form, with the youth's signature and a copy to the youth.

The *Supervised Setting Readiness Assessment*, *Community-Site Physical Safety Checklist* and *Supervised Setting Approval and Placement Agreement* are new forms that will be released in forthcoming OCFS policy guidance. They are described below:

Supervised Setting Readiness Assessment

A youth's readiness to reside in a Community-Site supervised setting or SILP unit must be assessed using a tool that is under development by OCFS, prior to the youth residing in such setting. This assessment must be completed based on an in-depth, comprehensive conversation with the youth that explores all areas of skills and knowledge necessary for living independently with supervision and support in a supervised setting. The *Supervised Setting Readiness Assessment* is an important tool to equip youth to critically evaluate and improve upon areas of skills needed to live independently. Sufficient time must be reserved to complete this process with the youth. The process is required to be youth-led and adult-supported.

This process is not required for youth to reside in a College-Owned Housing supervised setting. As is required for all youth, the LDSS continues to be responsible for case management functions including determining necessary services and supports for youth in College-Owned Housing settings. The *Supervised Setting Readiness Assessment* form may be used to assess what supports should be provided to youth but never to approve youth to enroll in post-secondary education or to reside in a College-Owned Housing supervised setting.

The form contains a "Financial" section and a "Knowledge, Skills, and Demonstrated Behavior" section.

- The "Financial" section calculates the youth's income, Maximum State Aid Rate (MSAR), and expenses to help a youth determine whether the youth can afford the costs of living in the proposed supervised setting.
- The "Knowledge, Skills, and Demonstrated Behavior" section helps the youth assess their ability to live independently. The worker and the youth must complete this section based both on an in-depth conversation and on the worker's recent experiences with the youth.

This section will help inform whether the youth possesses the skills necessary to make payments directly to the housing provider (landlord, friend, kin or other individual). If payments are made directly to the youth for this purpose, the *Supervised Setting Readiness Assessment* form must reflect that the youth has the maturity, responsibility, and financial literacy to make payments for their housing. LDSSs and VAs are encouraged to work with the youth toward readiness to make payments for their own housing as this is a skill they will require when they leave foster care.

Based on the readiness indicators, the LDSS or VA must select whether the youth is ready for a Community-Site SSP, a SILP, or if the youth is not ready for any SSP at this time and provide the basis

for such determination. The youth must have knowledge and skills in every area to be approved for an SSP; however, the youth may still be approved if such knowledge and skills are developing. Any skills that the youth must develop to be approved for an SSP or continue developing while residing in a supervised setting must be addressed by providing one or more relevant independent living service(s). This must be documented in the Outcomes/Activities block of the Family Assessment and Service Plan (FASP) and Service Needs section of the FASP.

If the youth is denied, the worker must determine, with the youth, when a new readiness assessment will be completed. Such date is documented on the readiness assessment form and the youth must receive a copy.

Community-Site Physical Safety Checklist

Every LDSS and VA approved to operate a Community-Site SSP must conduct a site visit and assess the physical safety of the proposed supervised setting utilizing the *Community-Site Physical Safety Checklist*. This form contains the regulatory standards¹⁰ related to the physical condition required for approval.

This checklist is to be completed annually and any time the youth seeks to move to a new Community-Site supervised setting.

Supervised Setting Approval and Placement Agreement

The *Supervised Setting Approval and Placement Agreement* form is required for SILP and Community-Site supervised settings but is not required for youth residing in College-Owned Housing settings. The form reflects the decision of the LDSS or VA to approve or disapprove the youth for the supervised setting based on the *Supervised Setting Readiness Assessment* form and the physical inspection of the setting. The form is signed by both the LDSS or VA worker and the youth.

All above forms must be uploaded into CONNECTIONS in the youth's case file.

In addition to the above forms, OCFS is developing the *Youth Housing Checklist* and *Youth Housing Dos and Don'ts* handouts in consultation with the OCFS Youth Advisory Board. These will be user friendly handouts that must be given to youth who are seeking approval – or have been approved – for a Community-Site SSP and have not yet chosen a setting. The checklist will help them in their search for a setting that is likely to meet the standards for approval.

Case Planning/Youth Supervision Activities

The LDSS or VA must provide services to youth residing in any of the three types of SSPs. 18 NYCRR 449.4(c) clarifies and expands on the required provision of services in SSPs.

Youth in all SSP types must receive casework contacts in accordance with the requirements of 18 NYCRR 441.21. 18 NYCRR Part 449.3 sets forth new requirements for casework contacts for youth residing in supervised settings. Such regulations maintain the current casework contact requirements for youth residing in SILPs (two visits each week with one visit outside of standard business hours). Compliance with youth supervision requirements is important for federal purposes.

This INF is the first OCFS guidance document that will be released regarding SSPs. OCFS will release an ADM providing further guidance and required actions for LDSSs and VAs to take to apply for and operate SSPs, and to approve or certify supervised settings.

¹⁰ 18 NYCRR 449.4(b).

IV. **Contacts**

Any questions concerning this release should be directed to the appropriate regional office, Division of Child Welfare and Community Services:

Buffalo Regional Office – Amanda Darling (716) 847-3145

Amanda.Darling@ocfs.ny.gov

Rochester Regional Office – Chris Bruno 585-238-8201

Chris.Bruno@ocfs.ny.gov

Syracuse Regional Office – Sara Simon (315) 423-1200

Sara.Simon@ocfs.ny.gov

Albany Regional Office – John Lockwood (518) 486-7078

John.Lockwood@ocfs.ny.gov

Spring Valley Regional Office – Sheletha Chang (845) 708-2498

Sheletha.Chang@ocfs.ny.gov

New York City Regional Office – Ronni Fuchs (212) 383-4873

Ronni.Fuchs@ocfs.ny.gov

Native American Services – Heather LaForme (716) 847-3123

Heather.LaForme@ocfs.ny.gov

Close to Home Oversight – Jewel Brown-Gregory (212) 383-1828

Jewel.Brown-Gregory@ocfs.ny.gov

/s/ Nina Aledort, Ph.D.

Issued By:

Name: Nina Aledort, Ph.D.

Title: Deputy Commissioner

Division/Office: Division of Youth Development and Partnerships for Success

/s/ Thomas R. Brooks

Issued By:

Name: Thomas R. Brooks

Title: Deputy Commissioner

Division/Office: Office of Strategic Planning and Policy Development