

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER b: PROGRAM AND TECHNICAL SUPPORT

PART 338

APPEAL OF FOSTER FAMILY HOME LICENSE DENIALS BY RELATIVE CAREGIVERS

Section

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AUTHORITY: Implementing and authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5].

SOURCE: Emergency rules adopted at 19 Ill. Reg. 12305, effective August 11, 1995 for a maximum of 150 days; adopted at 20 Ill. Reg. 1574, effective January 10, 1996; amended at 26 Ill. Reg. 11786, effective August 1, 2002; amended at 39 Ill. Reg. _____, effective _____.

Section 338.20 Definitions

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"Administrative hearing" in the context of this Part means a formal review of the Department's decision to deny a foster family home license to the relative who is serving as caregiver of children for whom the Department is legally responsible.

"Administrative law judge" means the person who is appointed by the Director of the Department and is responsible for conducting the fair hearing.

"Administrator of the Administrative Hearings Unit" means the person who is responsible for coordinating the administrative hearing appeal process.

"Appeal file" means the correspondence, statements, reports, investigative files, documents and other written material submitted to the Administrative Hearings Unit and the appellant after the commencement of the appeal. It does not include any documents or other material ~~that~~^{which} may be in the custody of any other unit of DCFS, unless the document or material has been submitted to both the appellant and the Administrative Hearings Unit.

"Appellant" means the person who requests a review or administrative hearing or in whose behalf a review and administrative hearing is requested.

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents ~~have~~^{has} signed an adoptive surrender or voluntary placement agreement with the Department.

"Date of action" means the date on which any Department action becomes effective.

"Date of appeal" is the postmark date on the appellant's request to appeal the Department's decision to deny the application for a foster family home license.

"Date of notice" means the date of the written notice of the Department's decision.

"Department's representative" means an attorney or designated individual~~the person who is~~ responsible for presenting the Department's case.

"Final administrative decision" means the Department's final decision, order or determination on an appealed issue rendered by the Director in a particular case, that affects the legal rights, duties or privileges of participants and that may be further appealed to the circuit court under the Administrative Review Law [735 ILCS 5].

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"Full-time care" means the child is a resident of the household, whether on a temporary, emergency, or permanent basis, and is receiving family care usually provided by a parent or guardian.

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising a child if the parent cannot raise the child. The worker shall verify the godparent/godchild relationship by contacting the parents to confirm the fact that they did, in fact, designate the person as the godparent. If the parents are unavailable, the worker should contact other close family members to verify the relationship. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in 89 Ill. Adm. Code. 301.60 (Placement Selection [Criteria](#)) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in 89 Ill. Adm. Code 301.80 ([Relative Home Placement](#)) must be met.

"License" means a document issued by the Department of Children and Family Services which authorizes a relative caregiver to operate a foster family home in accordance with 89 Ill. Adm. Code 402 (Licensing Standards for Foster Family Homes) and the provisions of the Child Care Act of 1969 [\[225 ILCS 10\]](#) and rules promulgated thereunder.

"Party" to any administrative hearing or other proceeding in the Department is the Department or the appellant, as the case may be.

"Relative", for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle, or great-aunt, or

is the spouse, or party to a civil union, of such a relative, or

is the child's step-father, step-mother, or adult step-brother or step-sister, or

is the partner, or adult child of a partner, in a civil union with the child's mother or father.

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~~Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this definition prior to the adoption, but only if the Department determines that it would be in the best interests of the child to consider this person a relative. [20 ILCS 505/7(b)]~~

~~"Relative" for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:~~

~~— is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle, or great aunt, or~~

~~— is the spouse of such a relative, or~~

~~— is the child's step father, step mother, or adult step brother or step sister.~~

~~Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. [20 ILCS 505/7(b)]~~

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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