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### **AGENCY PLAN FOR TITLE IV-E OF THE SOCIAL SECURITY ACT FOSTER CARE AND ADOPTION ASSISTANCE STATE/TRIBE OF New York**

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
ADMINISTRATION FOR CHILDREN AND FAMILIES  
CHILDREN'S BUREAU  
June 2009

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**PLAN FOR TITLE IV-E OF THE SOCIAL SECURITY ACT**

**FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE**

**STATE/TRIBE OF New York**

As a condition of the receipt of Federal funds under title IV-E of the Social Security Act (hereinafter, the Act), the

New York State Office of Children and Family Services  
(Name of State/Tribal Agency)

submits here a plan for the programs to provide, in appropriate cases, foster care and adoption assistance, and if the State/Tribal agency elects, guardianship assistance, under title IV-E of the Act and hereby agrees to administer the programs in accordance with the provisions of this plan, title IV-E of the Act, and all applicable Federal regulations and other official issuances of the Department.

The official text of laws, regulations and official issuances governs, and the State/Tribal agency acknowledges its responsibility to adhere to them regardless of the fact that, for purposes of simplicity, the specific provisions printed herein are sometimes paraphrases of, or excerpts and incomplete quotations from, the full text. Statutory citations refer to provisions in title IV-E of the Social Security Act. Regulatory citations refer to provisions in 45 CFR Parts 1355 and 1356.

The State/Tribal agency understands that if and when title IV-E is amended or regulations are revised, a new or amended plan for title IV-E that conforms to the revisions must be submitted.

**Federal  
Regulatory/  
Statutory**

**State Regulatory,  
Statutory, and Policy  
References and**

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References	Requirement	Citations for Each
	<b>SECTION 6. GUARDIANSHIP ASSISTANCE PROGRAM OPTION</b>	
473(d)(3)(A)	<p>A. ELIGIBILITY</p> <p>1. A child is eligible for a kinship guardianship assistance payment if the State/Tribal agency determines that:</p> <p>a. the child has been--</p> <p style="padding-left: 40px;">i. removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; and</p> <p style="padding-left: 40px;">ii. eligible for foster care maintenance payments under section 472 while residing for at least 6 consecutive months in the home of the prospective relative guardian;</p> <p>b. being returned home or adopted are not appropriate permanency options for the child;</p> <p>c. the child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child; and</p> <p>d. with respect to a child who has attained 14 years of age, the child has been consulted regarding the kinship guardianship arrangement.</p>	<p>SSL 458-a-458-f Kinship guardianship assistance program</p> <p>18NYCRR Part 436 Kinship guardianship assistance program</p> <p>Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement (OCFS 4431)</p> <p>Appendix H – Kinship Guardianship Assistance Eligibility Checklist Instructions</p> <p>Kinship Guardianship Assistance Eligibility Checklist (OCFS 4435)</p>
473(d)(3)(B)	<p>2. Siblings.</p> <p>a. The child and any sibling of the eligible child may be</p>	<p>SSL 458-a - 458-f Kinship guardianship</p>

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	<p>placed in the same kinship guardianship arrangement, in accordance with section 471(a)(31), if the State/Tribal agency and the relative agree on the appropriateness of the arrangement for the siblings; and</p> <p>b. Kinship guardianship assistance payments may be paid on behalf of each sibling so placed.</p>	<p>assistance program</p> <p>18 NYCRR Part 436 Kinship guardianship assistance program</p> <p>07-OCFS-INF-04 Keeping Siblings Connected: A White Paper</p> <p>Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement (OCFS 4431)</p> <p>Appendix H – Kinship Guardianship Assistance Eligibility Checklist Instructions</p> <p>Kinship Guardianship Assistance Eligibility Checklist (OCFS 4435)</p>
471(a)(28)	<p><b>B. PAYMENTS</b></p> <p>1. The State/Tribal agency provides kinship guardianship assistance payments on behalf of children to grandparents and other relatives who assume legal guardianship of the child for whom they have cared as foster parents and for</p>	<p>SSL 458-b Kinship guardianship assistance payments</p> <p>18 NYCRR Part 436 Kinship guardianship</p>

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	whom they have committed to care on a permanent basis, as provided in 473(d).	assistance program
473(d)(2)	2. A kinship guardianship assistance payment on behalf of a child shall not exceed the foster care maintenance payment which would have been paid on behalf of the child if the child had remained in a foster family home.	SSL 458-b Kinship guardianship assistance payments  18 NYCRR 436.5 Payment of kinship guardianship assistance
473(d)(1)(A)	<p>C. Agreements</p> <p>1. The State/Tribe must:</p> <p>a. negotiate and enter into a written, binding kinship guardianship assistance agreement with the prospective relative guardian of a child who meets the requirements of 473(d); and</p> <p>b. provide the prospective relative guardian with a copy of the agreement.</p>	<p>SSL 458-b Kinship guardianship assistance payments</p> <p>18 NYCRR 436.3 Eligibility for kinship guardianship assistance</p> <p>18 NYCRR 436.4 Kinship guardianship assistance and nonrecurring guardianship expenses agreement</p>

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<p>473(d)(1)(B) &amp; 473(d)(1)(C)</p>	<p>2. The agreement must specify, at a minimum-</p> <ul style="list-style-type: none"> <li>a. the amount of, and manner in which, each kinship guardianship assistance payment will be provided under the agreement, and the manner in which the payment may be adjusted periodically, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child;</li> <li>b. the additional services and assistance that the child and relative guardian will be eligible for under the agreement;</li> <li>c. the procedure by which the relative guardian may apply for additional services as needed;</li> <li>d. that the State/Tribal agency will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child, to the extent the total cost does not exceed \$2,000; and</li> <li>e. that the agreement shall remain in effect without regard to the State residency of the relative guardian.</li> </ul>	<p>SSL 458-b Kinship guardianship assistance payments</p> <p>18 NYCRR 436.4 Kinship guardianship assistance and nonrecurring guardianship expenses agreement</p>
<p>471(a)(20)(C)</p>	<p>D. SAFETY</p> <p>State/Tribal agency provides procedures for criminal records checks, including fingerprint-based checks of national crime information databases (as defined in section 534(e)(3)(A) of title 28, United States Code), on any relative guardian, and for checks described in 471(a)(20) on any relative guardian and any other adult living in the home of any relative guardian, before the relative guardian may receive kinship guardianship assistance payments on</p>	<p>SSL 458-b Kinship guardianship assistance payments</p> <p>18 NYCRR 436.3 Eligibility for kinship guardianship assistance</p>

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	behalf of the child under this plan option.	
473(b)(1) to (4); 479B(c)(1)(C)(ii)(II)	<p>E. MEDICAID AND SOCIAL SERVICES</p> <p>For the purposes of titles XIX and XX, any eligible child for whom there is a kinship guardianship assistance payment being made under section 473(d) is deemed to be a dependent child as defined in 406 of the Act and is deemed to be a recipient of AFDC under part A of title IV of the Act (as in effect 7/16/96) in the State in which such child resides.</p>	<p>SSL 458-d Medical subsidy</p> <p>18 NYCRR 436.8 Medical assistance/medical subsidy</p>
471(a)(2)	<p>F. TITLE IV-E GUARDIANSHIP ASSISTANCE PROGRAM PLAN REQUIREMENTS</p> <p>1. Title IV-E plan requirements 471(a)(2) through (9), (12), (13), (20)(C), (25), (26), and (28) through (32) are applicable to the guardian assistance program.</p> <p>A. Designation and Authority of State/Tribal Agency</p>	<p>SSL 17 Powers and duties of the commissioner.</p> <p>SSL 20 Powers and duties of the department.</p> <p>SSL 34 General powers of the -</p>

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471(a)(3)		<p>cCommissioner.</p> <p>SSL 406 Department of social welfare designated as state agency.</p> <p>SSL 407 Powers of department of social welfare.</p> <p>Chapter 436 of the Laws of 1997</p>
	B. State/Tribal Agency Structure and Function	<p>OCFS Organizational Chart and Description of Functions</p> <p><a href="http://www.ocfs.state.ny.us/main/">http://www.ocfs.state.ny.us/main/</a></p> <p><a href="http://ocfs.state.nyenet/agencyinfo.asp">http://ocfs.state.nyenet/agencyinfo.asp</a></p>
	State or Service Area Wide Operations	SSL 395

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471(a)(4)	Coordination with Titles IV-A and IV-B Programs	<p>Responsibility of public welfare districts for welfare of children.</p> <p>SSL 406 Department of social welfare designated as state agency.</p> <p>SSL 407 Powers of department social welfare.</p> <p>SSL 409-d District-wide child welfare services plan.</p> <p>SSL 458-b Kinship guardianship assistance payments.</p> <p>Chapter 436 of the Laws of 1997</p> <p>18 NYCRR Part 426 Title IV-E foster care and adoption assistance.</p> <p>SSL 34-a Services planning requirements.</p>
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471(a)(5)	Personnel Administration	<p>SSL 409-d District's child welfare plans developed in consultation with other government agencies.</p> <p>18 NYCRR Part 407 Consolidated services plan.</p> <hr/> <p>SSL 406 Department of social welfare designated as state agency.</p> <p>SSL 407 Powers of department of social welfare.</p> <p>18 NYCRR 402.4 Merit system.</p> <p>Executive Order No. 6 Assigning responsibilities of the State Department of Civil Service, and certain State agencies for insuring equal employment</p>
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471(a)(6)		opportunity for minorities, women, disabled persons and Vietnam era veterans in State government and establishing the Governor's executive committee for affirmative action.
	Reporting	SSL 406 Department of social welfare designated as state agency.  SSL 407 Powers of department of social welfare.  Chapter 436 of the Laws of 1997
471(a)(7)	Monitoring	SSL 20 Powers and duties of the department.  SSL 34 General powers and duties of

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471(a)(8)		the commissioner. SSL 153-a Reimbursement for services to social services districts.
	Safeguarding Information	SSL 372 Records and reports. SSL 373-a Medical histories. 18 NYCRR Part 357 Confidential nature of records. 18 NYCRR 431.7 Standards for access to and disclosure of confidential HIV-related information. 18 NYCRR Part 465 Confidentiality of information collected by the child care review service. 18 NYCRR 466.4

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471(a)(9)		Confidentiality (CONNECTIONS).
471(a)(12)	Child Abuse and Neglect	SSL Title 6 of Article 6 Child Protective Services.
471(a)(13)	Fair Hearings	SSL 458-f Fair hearings.  18 NYCRR 436.10 Fair hearings.
	Independent Audit	SSL 20 Powers and duties of the department.  SSL 34 General powers and duties of the commissioner.  SSL 406 Department of social welfare designated as state agency.  SSL 407 Powers of department of social

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471(a)(20)(C)	Safety	welfare.  SSL 458-b Kinship guardianship assistance payments.  18 NYCRR 436.3 Eligibility for kinship guardianship assistance.
471(a)(25)&(26)	Timely Interstate Placement of Children	SSL 374-a Interstate compact on the placement of children.  18 NYCRR 443.2(g) Interstate placements.  97-LCM-16 Interstate Compact on the Placement of Children (ICPC) Procedures to Request an ICPC Priority Home Study.
471(a)(28)		

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471(a)(29)	Kinship Guardianship Payments	<p>SSL 458-b Kinship guardianship assistance payments</p> <p>18 NYCRR Part 436 Kinship guardianship assistance program</p>
471(a)(30)	Kinship Care	<p>SSL 409-e Family service plan. SSL 409-f Uniform case recording.</p> <p>18 NYCRR Part 428 Standards for uniform case records and family and child assessment plans.</p> <p>18 NYCRR 430.11 Appropriateness of placement.</p> <p>09-OCFS-ADM 04: Handbook for Relatives Raising Children Handbook.</p>

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471(a)(31)	Compulsory School Attendance	SSL 458-b Kinship guardianship assistance payments.  18 NYCRR 436.5 Payment of kinship guardianship assistance.  18 NYCRR 436.6 Annual notification.
	Sibling Placement	FCA 1027-a Placement of siblings.  FCA 1055 Placement.  18 NYCRR Part 428 Standards for uniform case records and family and child assessment and service plans.  18 NYCRR 430.11 Appropriateness of placement.  18 NYCRR 431.10

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471(a)(32)		<p>Placement in foster family care of children who have siblings.</p> <p>07-OCFS-INF-04 Keeping Siblings Connected – A White Paper on Siblings in Foster Care and Adoptive Placements in New York State</p> <hr/> <p>SSL 39 Indian affairs.</p>
	Negotiation with Indian Tribe	
475(1)(F)	<p>2. Case plan requirements.</p> <p>For a child with respect to whom the permanency plan is placement with a relative and receipt of kinship guardian assistance payments, the State/Tribal agency shall include in the case plan a description of:</p> <p>a. the steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted;</p> <p>b. the reasons for any separation of siblings during</p>	<p>18 NYCRR 428.5 Progress notes</p>

	<p>placement;</p> <p>c. the reasons why a permanent placement with a fit and willing relative through a kinship guardianship assistance arrangement is in the child's best interests;</p> <p>d. the ways in which the child meets the eligibility requirements for a kinship guardianship assistance payment;</p> <p>e. the efforts the State/Tribal agency has made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons; and</p> <p>f. the efforts made by the State/Tribal agency to discuss with the child's parent or parents the kinship guardianship assistance arrangement, or the reasons why the efforts were not made.</p>	
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