

Attachment B

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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

SECTION 1. ORGANIZATION

- A. DESIGNATION AND AUTHORITY OF STATE/TRIBAL AGENCY
- B. STATE/TRIBAL AGENCY STRUCTURE AND FUNCTION
- C. STATE OR SERVICE AREA WIDE OPERATIONS
- D. COORDINATION WITH TITLES IV-A AND IV-B PROGRAMS
- E. CHILD SUPPORT ENFORCEMENT FOR CERTAIN CHILDREN IN FOSTER CARE

SECTION 2. FOSTER CARE MAINTENANCE PAYMENTS

- A. ELIGIBILITY
- B. VOLUNTARY PLACEMENTS (OPTION)
- C. PAYMENTS
- D. CASE REVIEW SYSTEM

- E. MEDICAL AND SOCIAL SERVICES
- F. SPECIFIC GOALS IN STATE/TRIBAL LAW
- G. PREVENTIVE AND REUNIFICATION SERVICES
- H. TERMINATION OF PARENTAL RIGHTS
- I. DATE CHILD CONSIDERED TO HAVE ENTERED FOSTER CARE
- J. DOCUMENTATION OF JUDICIAL DETERMINATION
- K. TRIAL HOME VISITS
- L. TRAINING

SECTION 3. ADOPTION ASSISTANCE PAYMENTS

- A. ELIGIBILITY
- B. PAYMENTS - AMOUNTS AND CONDITIONS
- C. ADOPTION ASSISTANCE AGREEMENT
- D. MEDICAID AND SOCIAL SERVICES
- E. ELIGIBILITY FOR ADOPTION INCENTIVE FUNDING
- F. ADOPTION TAX CREDIT

SECTION 4. GENERAL PROGRAM REQUIREMENTS

- A. STANDARDS FOR FOSTER FAMILY HOMES AND CHILD CARE INSTITUTIONS
- B. REVIEW OF PAYMENTS AND LICENSING STANDARDS
- C. FAIR HEARINGS
- D. INDEPENDENT AUDIT
- E. CHILD ABUSE AND NEGLECT
- F. TIMELY INTERSTATE PLACEMENT OF CHILDREN
- G. REMOVAL OF BARRIERS TO INTERETHNIC ADOPTION
- H. KINSHIP CARE
- I. SIBLING PLACEMENT
- J. SAFETY REQUIREMENTS
- K. INTERJURISDICTIONAL ADOPTIONS
- L. QUALITY STANDARDS

- M. COMPULSORY SCHOOL ATTENDANCE
- N. VERIFICATION OF CITIZENSHIP OR IMMIGRATION STATUS

SECTION 5. GENERAL PROVISIONS

- A. PERSONNEL ADMINISTRATION
- B. SAFEGUARDING INFORMATION
- C. REPORTING
- D. MONITORING
- E. APPLICABILITY OF DEPARTMENT-WIDE REGULATIONS
- F. AVAILABILITY OF PLANS
- G. OPPORTUNITY FOR PUBLIC INSPECTION OF CFSR MATERIALS
- H. NEGOTIATION WITH INDIAN TRIBES

SECTION 6. GUARDIANSHIP ASSISTANCE PROGRAM OPTION

- A. ELIGIBILITY
- B. PAYMENTS
- C. AGREEMENTS
- D. SAFETY
- E. MEDICAID AND SOCIAL SERVICES
- F. TITLE IV-E GUARDIANSHIP ASSISTANCE PROGRAM PLAN REQUIREMENTS

SECTION 7. TRIBE OPERATED IV-E PROGRAM REQUIREMENTS

- A. GENERAL PROGRAM REQUIREMENTS
- B. SERVICE AREA AND POPULATIONS
- C. NUNC PRO TUNC AND FOSTER CARE ELIGIBILITY REQUIREMENTS
- D. LICENSING STANDARDS FOR TRIBAL FOSTER FAMILY HOMES AND CHILD CARE INSTITUTIONS
- E. IN-KIND EXPENDITURES FROM THIRD-PARTY SOURCES

ATTACHMENT I: CERTIFICATION

ATTACHMENT II: GOVERNOR/TRIBAL LEADER'S CERTIFICATION

ATTACHMENT III: STATE ASSURANCES

ATTACHMENT IV: 479B TRIBAL ASSURANCES

ATTACHMENT V: 479B TRIBAL CERTIFICATIONS

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 References	Requirement	State Regulatory, Statutory, and Policy References and Citations for Each
	SECTION 2. FOSTER CARE MAINTENANCE PAYMENTS	
472(a)(1)&(2)	<p>a. who meets the requirements of section 406(a) of the Act (as in effect 7/16/96) is removed from the home of a relative specified in section 406(a), and is placed in foster care if:</p> <ul style="list-style-type: none"> i. the removal and foster care placement met and continues to meet the requirements of paragraph (2) in section 472(a) of the Act; and <p>the child, while in the home, would have met the Aid to Families with Dependent Children (AFDC) program eligibility requirement of paragraph (3) in section 472(a) of the Act;</p>	<p>SSL 358-a Dependent children in foster care. FCA 307.4. Hearing following detention. FCA 320.5 . The initial appearance; release or detention. FCA 352.2. Order of disposition. FCA 353.3 Placement. FCA 728 Discharge, release or detention by judge after hearing and before filing of petition in custody cases. FCA 739 Release or detention after filing of petition and prior to order of</p>

		<p>disposition. FCA 754 Disposition on adjudication of person in need of supervision. FCA 756 Placement. FCA 1022 Preliminary orders of court before petition filed. FCA 1027 Preliminary orders after filing of petition. FCA 1028 Application to return child temporarily removed. FCA 1051 Sustaining or dismissing petition. FCA 1052 Disposition on adjudication. FCA 1055 Placement. FCA 1094 Initial appearance and preliminary proceedings FCA 1095</p>
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		<p>Fact finding and disposition</p> <p>18 NYCRR Part 369 (ADC) Family assistance. 18 NYCRR Part 426 Title IV-E foster care and adoption assistance.</p> <p>OCFS Eligibility Manual For Child Welfare Programs, (Updated 2010)</p>
<p>472(a)(2)(A) 1356.21(c)</p>	<p>b. whose removal and foster care placement are in accordance with:</p> <ul style="list-style-type: none"> i. a voluntary placement agreement entered into by the child's parent or legal guardian, who is the relative referred to in paragraph (1) of section 472(a) of the Act; or ii. a judicial determination to the effect that continuation of residence in the home from which removed would be contrary to the welfare, or that the placement would be in the best interest, of the child and that reasonable efforts of the type described in section 471(a)(15) for a child were made. The contrary to the welfare determination will be made in the first court 	<p>SSL 358-a Dependent children in foster care. SSL 384-a Transfer of care and custody. FCA 307.4 Hearing following detention. FCA 320.5 The initial appearance; release or detention. FCA 352.2. Order of disposition. FCA 353.3 Placement.</p>

	<p>ruling that sanctions (even temporarily) the removal of a child from home. If the determination regarding contrary to the welfare is not made in the first court ruling pertaining to removal from the home, the child will not be eligible for title IV-E foster care maintenance payments for the duration of that stay in foster care;</p>	<p>FCA 728 Discharge, release or detention by judge after hearing and before filing of petition in custody cases. FCA 739 Release or detention after filing of petition and prior to order of disposition. FCA 754 Disposition on adjudication of person in need of supervision. FCA 756 Placement. FCA 1022 Preliminary orders of court before petition filed. FCA 1027 Preliminary orders after filing of petition. FCA 1028 Application to return child temporarily removed. FCA 1051 Sustaining or dismissing petition.</p>
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		<p>FCA 1052 Disposition on adjudication. FCA 1055 Placement. FCA 1094 Initial appearance and preliminary proceedings FCA 1095 Fact finding and disposition</p> <p>18 NYCRR Part 369 (ADC) Family assistance. 18 NYCRR Part 426 Title IV-E foster care and adoption assistance</p> <p>OCFS Eligibility Manual For Child Welfare Programs, (Updated 2010)</p>
<p>1356.21(k)</p>	<p>2. Removal.</p> <p>a. For the purposes of meeting the requirements of section 472(a)(2)(A)(1) of the Act, a removal from the home must occur pursuant to:</p>	<p>SSL 358-a Dependent children in foster care. SSL 384-a Transfer of care and custody</p>

	<ul style="list-style-type: none"> i. a voluntary placement agreement entered into by a parent or relative which leads to a physical or constructive removal (i.e., a non-physical or paper removal of custody) of the child from the home; or ii. a judicial order for a physical or constructive removal of the child from a parent or specified relative. 	<p>of children. FCA 307.4 Hearing following detention. FCA 320.5 The initial appearance; release or detention. FCA 352.2. Order of disposition. FCA 353.3. Placement. FCA 728 Discharge, release or detention by judge after hearing and before filing of petition in custody cases. FCA 739 Release or detention after filing of petition and prior to order of disposition. FCA 754 Disposition on adjudication of person in need of supervision. FCA 756 Placement. FCA 1022 Preliminary orders of court before petition filed. FCA 1027</p>
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		<p>Preliminary orders after filing of petition. FCA 1028 Application to return child temporarily removed. FCA 1051 Sustaining or dismissing petition. FCA 1052 Disposition on adjudication. FCA 1055 Placement. FCA 1094 Initial appearance and preliminary proceedings FCA 1095 Fact finding and disposition</p>
<p>1356.21(b) 471(a)(15)(A)&(B)</p>	<p>G. PREVENTIVE AND REUNIFICATION SERVICES</p> <p>1. Reasonable efforts. The State/Tribe makes reasonable efforts to maintain the family unit and prevent the unnecessary removal of a child from his/her home, as long as the child's safety is assured; to effect the safe reunification of the child and family</p>	<p>SSL 358-a Dependent children in foster care. FCA 307.4 Hearing following detention. FCA 320.5 The initial appearance; release</p>

	<p>(if temporary out-of-home placement is necessary to ensure the immediate safety of the child); and to make and finalize alternate permanency plans in a timely manner when reunification is not appropriate or possible. In determining reasonable efforts to be made with respect to a child and in making such reasonable efforts, the child's health and safety is the State's and Tribe's paramount concern.</p>	<p>or detention. FCA 352.2(2) Order of disposition. FCA 355.3(4) Extension of placement. FCA 355.5 (7) Permanency hearing. FCA 728 Discharge, release or detention by judge after hearing and before filing of petition in custody cases. FCA 739 Release or detention after filing of petition and prior to order of disposition. FCA 754(2) Disposition on adjudication of person in need of supervision. FCA 756-a(d) Extension of placement. FCA 1022(a) Preliminary orders of court before petition</p>
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		<p>filed. FCA 1027(b) Preliminary orders after filing of petition FCA 1028(b), (c) & (d) Application to return child temporarily removed. FCA 1052(b) Disposition on adjudication. FCA Article 10-A Permanency hearings for children placed out of their homes. FCA 1094 Initial appearance and preliminary proceedings</p> <p>18 NYCRR Part 428 Standards for uniform case records and family and child assessments and service plans. 18 NYCRR Part 430.12 Diligence of effort.</p>
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		<p>OCFS Eligibility Manual For Child Welfare Programs, (Updated 2010)</p>
<p>1356.21(b)(1)(i)&(ii)</p>	<p>3. Judicial determination of reasonable efforts to prevent a child's removal from the home.</p> <p>a. When a child is removed from his/her home, the judicial determination, as to whether reasonable efforts were made or were not required to prevent the removal, is made no later than 60 days from the date the child is removed from the home.</p> <p>b. If the determination concerning reasonable efforts to prevent the removal is not made as specified above, the child is not eligible under the title IV-E foster care maintenance payments program for the duration of that stay in foster care.</p> <p>(Tribes, see also section 7 for use of nunc pro tunc orders.)</p>	<p>SSL 358-a Dependent children in foster care. FCA 307.4 Hearing following detention. FCA 320.5 The initial appearance; release or detention. FCA 352.2(2) Order of disposition. FCA 728 Discharge, release or detention by judge after hearing and before filing of petition in custody cases. FCA 739 Release or detention after filing of petition and prior to order of disposition. FCA 754(2) Disposition on adjudication of</p>

		<p>person in need of supervision. FCA 1022 (a) Preliminary orders; notice and appointment of counsel. FCA 1027(b) Preliminary orders after filing of petition. FCA 1028(b), (c) & (d) Application to return child temporarily removed. FCA 1039(b) Termination of reasonable efforts. FCA 1052(b) Disposition on adjudication. FCA 1094 Initial appearance and preliminary proceedings</p> <p>18 NYCRR Part 426 Title IV-E foster care and adoption assistance.</p>
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		OCFS Eligibility Manual For Child Welfare Programs, (Updated 2010)
1356.21(d) 472(a)(1)	<p>J. DOCUMENTATION OF JUDICIAL DETERMINATION</p> <p>The judicial determinations regarding contrary to the welfare, reasonable efforts to prevent removal, and reasonable efforts to finalize the permanency plan in effect, including judicial determinations that reasonable efforts are not required, are explicitly documented and made on a case-by-case basis and so stated in the court order.</p> <p>1. If the reasonable efforts and contrary to the welfare judicial determinations are not included as required in the court orders, a transcript of the court proceedings is the only other documentation accepted to verify that these required determinations have been made.</p> <p>2. Neither affidavits nor nunc pro tunc orders will be accepted as verification documentation in support of reasonable efforts and contrary to the welfare judicial determinations, except as provided in 479B(c)(ii) of the Act and for Tribes. (See section 7.C. of this plan.)</p> <p>3. Court orders that reference State or Tribal law to substantiate judicial determinations are not acceptable, even if the law provides that a removal must be based on a judicial determination that remaining in the home would be contrary to the child's welfare or that removal can only be</p>	<p>SSL 358-a Dependent children in foster care. FCA 307.4. Hearing following detention. FCA 320.5 . The initial appearance; release or detention. FCA 352.2. Order of disposition. FCA 355.3 Extension of placement. FCA 355.5 Permanency hearing. FCA 728 Discharge, release or detention by judge after hearing and before filing of petition in custody cases. FCA 739 Release or detention after filing of petition and prior</p>

	<p>ordered after reasonable efforts have been made, except as applied to Tribes in section 7 of this plan regarding use of nunc pro tunc orders.</p> <p>ii. (Tribes see section 7 for nunc pro tunc orders.)</p>	<p>to order of disposition. FCA 754 Disposition on adjudication of person in need of supervision FCA 756-a Extension of placement. FCA 1022 Preliminary orders of court before petition filed. FCA 1027 Preliminary orders after filing of petition. FCA. 1028 Application to return child temporarily removed. FCA 1052 Disposition on adjudication. FCA 1089 Permanency hearings. FCA 1094 Initial appearance and preliminary proceedings</p>
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		<p>18 NYCRR Part 426 Title IV-E foster care and adoption assistance.</p> <p>OCFS Eligibility Manual For Child Welfare Programs, (Updated 2010)</p> <p>00 OCFS INF-5 ASFA Safety and Permanency</p>
<p>475(8)</p>	<p>M. DEFINITION OF 'CHILD'</p> <p>For the purposes of the title IV-E foster care program under section 472, the term 'child' means</p> <ul style="list-style-type: none"> i. an individual who has not attained 18 years of age; or ii. at the option of the title IV-E agency an individual <ul style="list-style-type: none"> a. who is in foster care under the responsibility of the title IV-E agency b. who has attained 18 years of age but who has not attained 19, 20, or 21 years of age (as elected and indicated by the title IV-E agency) and 	<p>FCA 355.3 Extension of Placement</p> <p>FCA 756-a Extension of placement</p> <p>FCA 1087 Definitions</p> <p>FCA Article 10-B Former Foster Care Youth Re-Entry Proceedings.</p> <p>FCA Article 10-C Destitute children</p>

	<p>c. who meets any of the following conditions</p> <p>I. the child is completing secondary education or a program leading to an equivalent credential;</p> <p>II. the child is enrolled in an institution which provides post-secondary or vocational education;</p> <p>III. the child is participating in a program or activity designed to promote, or remove barriers to, employment;</p> <p>IV. the child is employed for at least 80 hours per month; or</p> <p>V. the child is incapable of doing any of the above described activities due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child.</p>	<p>10-OCFS-ADM-10 Title IV-E Foster Care & Adoption to Age 21</p> <p>OCFS Eligibility Manual For Child Welfare Programs, (Updated 2010)</p>
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