



Placement with Department of Health & Human Services Employees and Assistant Attorneys General

STATE of Maine
OFFICE OF CHILD AND FAMILY SERVICES POLICY

Section 3

Subsection 5

Approved by: [Signature]
Director, OCFS

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I. SUBJECT

Placement with Department of Health & Human Services Employees and Assistant Attorneys General.

II. STATUTORY AUTHORITY

22 M.R.S §4005-G, §4005-H

III. DEFINITIONS

For a complete list of definitions, see the OCFS Policy Manual Glossary. In this document, the first reference to any word that is defined is hyperlinked to the Glossary.

IV. POLICY

The Office of Child and Family Services (OCFS) recognizes that children in the care and custody of the State of Maine, Department of Health & Human Services should be placed in the least restrictive setting that meets their needs. For most children this setting is in a licensed [resource home](#). OCFS recognizes that its employees, other [DHHS employees](#), and AAGs, just as other residents of Maine, may want to provide a foster or [adoptive placement](#) for children in care.

Due to the real and perceived conflict of interest that could arise in this situation, this policy outlines which DHHS employees and AAGs may take a [placement](#) of a child in custody; which children are eligible for placement with employees; and under what parameters these placements may occur.

When the DHHS Employee or AAG is a [relative](#) of the foster child, the relative relationship will take priority over their position with DHHS or the Maine Office of the Attorney General.

For OCFS staff who are licensed by the State of Maine as a Social Worker the [National Association of Social Workers' Code of Ethics](#) applies. The Code of Ethics in Section 1.06 (c) Conflicts of Interest states:

Social workers should not engage in dual or multiple relationships with clients or former clients in which there is a risk of exploitation or potential harm to the client. In instances when dual or multiple relationships are unavoidable, social workers should take steps to protect clients and are responsible for setting clear, appropriate, and culturally sensitive boundaries. (Dual or multiple relationships occur when social workers relate to clients in more than one relationship, whether professional, social, or business. Dual or multiple relationships can occur simultaneously or consecutively.)

AAG's are subject to the Model Rules of Professional Conduct from the American Bar Association. This includes [Rule 1.11 Special Conflicts of Interest for Former and Current Government Officers and Employees](#).

V. PROCEDURES

Applying to be a Resource Parent. OCFS will accept applications to be a [resource parent](#) from DHHS employees as they would anyone else applying to be a resource parent. All procedures for licensure will be followed as outlined in policy [5.1 Family Standards Foster and Adoptive Care](#). Licensure does not guarantee placement. There are certain positions within DHHS where there is a real or perceived conflict of interest. **Note:** When the DHHS Employee or AAG is a relative of the foster child, the relative relationship will take priority over their position with DHHS or the Maine Office of the Attorney General.

- a. DHHS Employees with whom placements will not be made due to potential authority over OCFS cases or perceived conflicts of interest include:
 - i. The Commissioner and Deputy Commissioners
 - ii. Office Directors and Associate Directors
 - iii. OCFS Regional Associate Directors, Program Administrators, Assistant Program Administrators, and Program Managers.
- b. DHHS Employees not employed by OCFS:

- i. If a DHHS employee not employed by OCFS applies to be a resource parent and prefers to apply to another district or office within a district, due to relationships with local office staff, they will be offered the opportunity to do so.
- c. Current or Former OCFS Employees:
 - i. When employees and former employees of OCFS apply to be a resource parent they must apply in a district other than the district within which they work or have worked within the past three years.
 - ii. When a current OCFS employee is a licensed resource parent the resource will be designated as “PA (Program Administrator) Approval Only” in the child welfare information system to ensure placements in these homes meet policy guidelines.
- d. Office of the Attorney General Employees with whom placements will not be made due to potential authority over OCFS cases or perceived conflicts of interest include:
 - i. The Attorney General;
 - ii. Office of the Attorney General Division Chiefs;
 - iii. Any [Assistant Attorney General \(AAG\)](#) who currently represents the Department of Health and Human Services in child protective proceedings, licensing, or other child welfare related matters.
- e. Current or Former AAGs:
 - i. When AAGs who have overseen child welfare cases apply to be a resource parent they must apply in a district other than a district within which they oversaw or litigated child welfare cases within the past three years.
 - ii. At no time can a current or former AAG who previously handled child protection cases foster or adopt a child from a case in which they were counsel for DHHS.

Selection of Placement.

- a. DHHS Employees not employed by OCFS, excluding those exceptions listed in the Applying to be a Resource Home section of the Procedures, may take placement of a child in DHHS custody using the same guidelines and selection criteria as those used for resource parents not employed by DHHS.
- b. OCFS Employees who are eligible to become resource parents:
 - i. May not take placements of children in custody from districts that they have worked in within the past three (3) years. **Exception:** If the OCFS employee is a relative of the child.
 - ii. May not take placements of children in voluntary custody (V2) or cases with a case goal of reunification to avoid a real or perceived conflict of interest. **Exception:** If the OCFS employee is a relative of the child.
 - iii. Current or former employees of OCFS who have previously been the assigned caseworker or supervisor for a specific child may not foster or adopt that specific child.
 - iv. May provide a resource home, or respite placement for children when:

1. A cease reunification order has been granted in regard to both [parents](#);
 2. A Termination of Parental Rights Order has been granted and the child is legally free for [adoption](#);
 3. The case goal is Other Planned Permanent Living Arrangement (OPPLA); or
 4. A youth in care is over the age of 18 and has signed a Youth Transition Agreement.
- c. Office of the Attorney General Employees, excluding those exceptions listed in the Applying to be a Resource Home section of the Procedures, may take placement of a child in DHHS custody using the same guidelines and selection criteria used for resource parents not employed by the Office of the Attorney General. **Exception:** If the Office of the Attorney General employee is a relative of the child.
 - d. OCFS Supervisors, Managers and Directors should only be approved for adoptive and relative placement.
 - e. Prior to the decision being made to place a child in the licensed resource home of a OCFS employee or an AAG, the following steps must occur and be documented:
 - i. The needs of the child and the ability of the resource parents to meet these needs are identified in the child welfare information system.
 - ii. The home study of the resource family is read by the child's caseworker and supervisor.
 - iii. If the placement is an adoptive placement, then the reasons for selecting this resource home for the adoption of the child must be followed in accordance with [6.2 Adoption Recruitment Placement and Supervision](#).
 - iv. The Regional Associate Directors for both the district the employee works in and the district that is supervising the case will be notified. If the placement is with an AAG the Chief of the Child Protection Division of the Office of the Maine Attorney General will be notified.
 - f. Exceptions to these procedures may be requested from the Associate Director of Child Welfare in order to meet the individual needs of a specific child.

Relative/Fictive Kin Placement.

- a. If an employee of DHHS or the Office of the Attorney General is the relative of a child entering or currently in the custody of DHHS or, if they are currently the placement of a [sibling](#) of a child entering or currently in care, that relationship will take priority over their position. If the employee is [fictive kin](#) of the child entering or in DHHS custody, the employee must have an already established, emotionally significant relationship with the child that takes on the characteristics of a family relationship.
- b. In these cases, the relative or fictive kin's resource parent application and home study process will be assigned outside of the district the employee works in and outside of the district the AAG represents in child welfare matters. In addition, whenever possible, the Relative Placement/[Kinship Care](#) Assessment will be assigned to and completed by a district other than the district where the employee works. If placement with the relative/fictive kin occurs and the case is handled in the same district the employee or the AAG works, the case will be transferred to another district. Notification of these cases will be made to the OCFS Director, the Associate Director of Child Welfare, and the Regional Associate Director responsible for both the district within which the employee works and the district where the

case is being managed. In cases where the placement is with an AAG, the Chief of the Child Protection Division of the Office of the Maine Attorney General will be notified.

Case Assignment and Supervision.

- a. As stated above, case assignment and supervision of placement with a DHHS employee or AAG will occur in a district office other than the district the employee or AAG works or has worked in the past three years. When the placement is with a supervisor, program administrator, assistant program, program manager, or a director, the case will be assigned to an employee of a higher position in another district, central office, or as assigned by the Associate Director of Child Welfare or OCFS Director. This is done to avoid both the challenge for a caseworker to adequately assess and address any possible safety concerns, as well as any perceived or actual conflicts of interest.
- b. If any concerns regarding the placement arise, the Program Administrator and the Regional Associate Directors for the districts where the case is assigned and where the employee works shall be notified and consulted as to the appropriate steps to take. If needed, the Associate Director of Child Welfare and the OCFS Director will be notified. If legal advice is needed, the Chief of the Child Protection Division of the Office of the Maine Attorney General will be consulted.
- c. In situations where the placement is with someone who has authority or perceived authority over OCFS, such as a legislator or the Ombudsman, the OCFS Associate Director, or OCFS Director will make a determination about who will supervise the case on a case-by-case basis.

Confidentiality. As with all cases, confidentiality rules apply. When placement is with a DHHS employee or AAG, it is important to remember not to discuss the case with anyone not having a direct work-related reason to know the information. In addition:

- a. Access to cases in the child welfare information system will be restricted; and
- b. Access to paper and electronic files will be limited to those who are involved in the management of the case.

VI. POLICY SUPERSEDES

V. D-4. Placement with Department Employees and AAG's, Effective November 15, 1993

VII. LINKS TO RELATED POLICIES

None.

VIII. APPENDICES

None.

Note: The hyperlinks to these documents only work on DHHS issued computers. If you would like to request a copy of these documents, please email your request to:

OCFSPolicyTraining.DHHS@maine.gov