

## 1717 CRIMINAL CONVICTIONS – REQUEST FOR WAIVER

Chapter: **Foster Care Providers**

Section: **Licensing**



New Hampshire Division for Children, Youth and Families Policy Manual

Policy Directive: **12-07**

Approved:

Effective Date: **September 2012**

Scheduled Review Date:

Handwritten signature of Maggie Bishop in black ink.

Maggie Bishop, DCYF Director

Related Statute(s): [RSA 169-C](#), and [RSA 170-E](#)

Related Admin Rule(s): [He-C 6446](#)

Related Federal Regulation(s):

Related Form(s):

Bridges' Screen(s) and Attachment(s):

### Purpose

Waivers are relief from compliance with a requirement of foster home licensing that is set forth in rule or policy. Since not all situations may be anticipated under policy or rule, waivers provide the opportunity for otherwise qualified applicants to become licensed.

### Policy

- I. He-C 6446.27(a)(2) provides that an application for a foster family care license or permit shall be denied if the applicant has been convicted of a felony. The applicant may, however, request a waiver of this provision in accordance with He-C 6446.28.
- II. If the applicant requests a waiver pursuant to He-C 6446.26 and the applicant has:
  - A. A felony conviction for child abuse or neglect; for spousal abuse; for a crime against children (including child pornography), or for a crime involving violence, including rape, sexual assault, or homicide but not including other physical assault or battery ([42USC 671 \(a\)\(20\)\(A\)\(i\)](#)); or
  - B. A felony conviction for physical assault, battery or a drug-related offense and that felony was committed within the past five years ([42 USC 671 \(a\)\(20\)\(A\)\(ii\)](#)); or
  - C. Been convicted of a violent or sexually-related crime against a child or of a crime which shows that the person might be reasonably expected to pose a threat to a child, such as a violent crime or a sexually-related crime against an adult (RSA 170-E: 29 III),

### The request for a waiver shall be denied:

- III. If the applicant requests a waiver pursuant to He-C 6446.26 and the applicant has been convicted of crimes against minors or adults, except crimes as provided in paragraph (b), or if the applicant is the subject of a founded report of abuse or neglect (RSA 170-E: 29 IV), the request for a waiver may be denied.
- IV. Prior to the denial of any request for a waiver based on a conviction under paragraph (c), the Resource Worker shall, pursuant to RSA 170-E: 29 IV:
  - A. Conduct an investigation to determine if the applicant poses a present threat to the safety of child(ren)/youth; and

- B. Afford the applicant an opportunity to present evidence on his/her behalf to show that he/she does not pose a threat to the safety of children/youth.
- V. Provisions of this policy shall be applicable to renewals of applications when the Central Registry and Criminal Records Check are completed according to RSA170-E 29 II.