

## 1711 REASONABLE MODIFICATIONS FOR FOSTER CARE AND ADOPTION PROGRAMS

Chapter: <b>Foster Care Providers</b>	Section: <b>Recruitment</b>
	New Hampshire Division for Children, Youth and Families Policy Manual
	Policy Directive: <b>17-41</b>
	Effective Date: <b>July 2017</b>
	Scheduled Review Date:
Related Statute(s): <b>RSA 170-E</b>	Related Form(s):
Related Admin Rule(s): <b>He-C 6446</b>	Bridges' Screen(s) and Attachment(s):
Related Federal Regulation(s):	

All children, youth and families have strengths. DCYF shall not discriminate against qualified individuals with disabilities on the basis of the disability in providing services, programs, or activities in accordance with the requirements of Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 (ADA). The Division shall support reasonable modifications in the Foster Care Program and Adoption Program requirements when the modifications are necessary to avoid discrimination on the basis of disability, unless the Division can demonstrate that the necessary modifications would establish an undue hardship for the Foster Care Program/Adoption Program or create a conflict for the safety of the child/youth.

### Definitions

**"Adoption"** means the establishment of the legal status of parent and child between individuals who are not biological parent and child.

**"DCYF"** or the **"Division"** means the Department of Health and Human Services' Division for Children, Youth and Families.

**"Foster Care"** means the supervised 24-hour substitute care of a child placed away from their parent or legal guardian for whom the State has placement and care responsibility. This includes family foster homes, relative homes, pre-adoptive homes, shelters and residential facilities.

**"Qualified Individual with a Disability"** means an individual who is considered to have a "disability" based on a physical or mental impairment that substantially limits one or more major life activity(ies), has a record of such an impairment, or is regarded as having such an impairment.

**"Reasonable Modification"** means any change to standard practice, that allows an individual with a disability to apply for, perform, or enjoy equal access to programs and benefits available to other individuals. DCYF is required by law to provide reasonable accommodation to qualified individuals with disabilities, unless doing so would impose an undue hardship (significant difficulty or expense) on the agency or create a conflict for the safety of the child/youth.

### Policy

- I. DCYF is prohibited from any practices or requirements that categorically limit or exclude qualified individuals with disabilities from participating in the Foster Care Program/Adoption Program.
  - A. DCYF shall not exclude any individual with a disability from the full and equal access and opportunities to participate in the Foster Care/Adoption Program, unless the individual poses

- a direct threat to the health or safety of themselves or others, that cannot be mitigated by reasonable modifications.
- B. Upon request, DCYF will allow reasonable modifications for qualified foster care and adoption applicants or participants with disabilities unless DCYF can demonstrate that allowing the modifications would establish an undue hardship for the Foster Care/Adoption Program or create a conflict for the safety of the child/youth.
- II. DCYF conducts individualized assessments of applicants who are of qualified individuals with disabilities before making licensing or renewal decisions for the Foster Care/Adoption Program.
- A. DCYF is prohibited from making licensing or renewal decisions for the Foster Care/Adoption Program based on stereotypes about what individuals with disabilities can do, or how much assistance they may require.
- B. DCYF may request additional information necessary to determine whether an applicant or participant who has requested a reasonable modification has a disability-related need for the modification, when the individual's disability or need for the modification are not readily apparent or known.
- C. DCYF will maintain the medical records or other health information of the foster care and adoption program applicants and participants confidentially, in compliance with HIPAA.
- III. The DCYF Foster Care and Adoption Program must consider, on a case-by-case basis, individual requests for reasonable modifications to accommodate an impairment, such that the reasonable modification is not based on a lack of financial means.
- A. In support of child/youth stability and permanency, requests should be made for reasonable modifications to support maintaining a placement.
- B. Individuals may request a waiver of Foster Care Program/Adoption Program requirements pursuant to He-C 6446.28 if:
1. The waiver will not jeopardize the health or safety of the child/youth; and
  2. The waiver will not impair the individual's ability to adequately care for the child/youth in care.
- IV. The Division will not place a surcharge on a particular qualified individual with a disability, or any group of qualified individuals with disabilities, to cover the cost of measures that are necessary to provide non-discriminatory treatment required by Title II of the ADA or Section 504.
- V. To address any violations of this policy:
- A. Staff shall consult their supervisor; or
- B. Foster care and adoption applicants or providers shall contact the local Resource Worker.