



# City of New York

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OFFICE OF THE COMPTROLLER

**Scott M. Stringer**  
**COMPTROLLER**



## MANAGEMENT AUDIT

**Marjorie Landa**

Deputy Comptroller for Audit

Audit Report on the Oversight of the  
Administration for Children's Services'  
Certification Process of Foster Parents

MG18-055A

**May 3, 2019**

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK  
**OFFICE OF THE COMPTROLLER**  
SCOTT M. STRINGER

May 3, 2019

To the Residents of the City of New York:

My office has audited the Administration for Children's Services (ACS) oversight of the certification process for foster parents. We audit City entities such as ACS as a means of increasing accountability and helping to ensure that City programs operate as intended and in the best interest of the public.

The audit found that ACS does not have adequate oversight over the foster care certification process performed by its contracted foster care providers. During Fiscal Year 2017, 81 percent of the 110 sampled foster home files were missing evidence of one or more of the prerequisites required for a family to be certified to provide foster care (e.g., mandated training, medical exams, character references). ACS has no process in place prior to foster care providers' certifications of foster families and the placement of children with those families to independently verify that providers are properly certifying families in accordance with City and State requirements. In addition, although ACS conducts post-certification audits to assess whether required steps were taken and documented for recently certified and recertified foster care families, ACS is not utilizing this tool effectively.

The audit makes four recommendations to ACS, including that ACS should develop a review process that ensures that foster care providers do not certify prospective foster care families until the providers have collected the required evidence to demonstrate that the families have met the City and State's requirements, and that ACS should implement procedures that require staff to follow up on the annual audits to ensure that providers either correct all deficiencies identified in those audits or work with ACS to develop a plan to correct them.

The results of the audit have been discussed with ACS officials, and their comments have been considered in preparing this report. Their complete written response is attached to this report.

If you have any questions concerning this report, please e-mail my Audit Bureau at [audit@comptroller.nyc.gov](mailto:audit@comptroller.nyc.gov).

Sincerely,



Scott M. Stringer

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# THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER MANAGEMENT AUDIT

## Audit Report on the Oversight of the Administration for Children’s Services’ Certification Process for Foster Parents

MG18-055A

### EXECUTIVE SUMMARY

The Administration for Children’s Services (ACS) works to ensure the safety and well-being of children and families residing in New York City (City) by providing child welfare, juvenile justice, and education services. ACS contracts with private nonprofit organizations to support and stabilize families at risk of a crisis through preventive services, and provides foster care services for children not able to safely remain at home. ACS currently has contracts with 23 foster care providers for a total amount of \$1,067,312,031.<sup>1</sup>

The New York State (State) Office of Children and Family Services (OCFS) regulates and supervises foster care in the State. For counties outside of the City, a local Department of Social Services manages the respective county’s foster care services. Within the City, ACS carries out that responsibility. When children are placed in foster care, the Family Court gives the ACS commissioner “temporary custody of the children.”

In accordance with ACS’s contracts with nonprofit foster care providers, the providers are responsible for certifying individuals’ eligibility to be foster parents based on certification requirements set forth in Title 18, paragraph 443.2, of the New York Codes, Rules and Regulations (NYCRR). Each provider has a Home Finding Department for this purpose. The Home Finding Department conducts the certification and recertification processes through which it ensures that each prospective foster family meets all regulatory requirements before foster children can be placed in their care. Foster homes must be recertified on an annual basis.

OCFS requires that the following prerequisites be met in order for anyone to become a foster parent:

- *Training* – foster parents must receive parenting training to ensure that they have knowledge of how to properly care for the foster child. Newly certified foster parents who are not relatives of the child are required to receive a minimum of 30 hours; relatives applying to serve as emergency foster parents must receive 15 hours; and all foster parents seeking recertification must receive 6 hours annually.

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<sup>1</sup> All of these contracts are due to expire on June 30, 2020.

- *Medical Exams* – all household members must be in good medical condition and must be tested for tuberculosis (TB).
- *Federal Bureau of Investigation (FBI)/Statewide Central Register of Child Abuse and Maltreatment (SCR) Clearance* – foster parents, and any household member who turns 18 years of age prior to or during the placement period of a foster child, must be cleared through a check of criminal records maintained by the FBI and a separate check of the SCR so as to ensure that the household is a safe environment for the foster child.
- *Home Study Narrative* – a social worker must visit the prospective foster home to determine whether the physical space meets the State’s requirements, such as the installation of window guards where necessary, an appropriate number of beds, and overall cleanliness.
- *References* – for an initial certification, all foster parents must provide three references who can attest to the character of the foster parent.

ACS’s procedures require its Provider Agency Measurement System (PAMS) unit to perform an annual Foster Parent Training and Certification Records audit of a sample of each contracted foster care provider’s home files for its newly certified and first year recertified foster parents.<sup>2</sup> The purpose of these audits is to determine whether providers have evidence that the required steps were performed and required documents were collected prior to certifying parents to provide foster care.

## Audit Findings and Conclusions

The audit found that ACS does not have adequate oversight over the foster care certification process performed by its contracted foster care providers. As a result, during Fiscal Year 2017, 81 percent of the 110 sampled foster home files that we reviewed were missing evidence of one or more of the prerequisites required for a family to be certified to provide foster care—specifically: mandated training; medical exams; an FBI and/or SCR clearance; a home study narrative establishing that the physical space met State requirements; and character references for new foster parents.

We found that ACS has no process in place to independently verify that its contracted foster care providers are properly certifying prospective foster care families in accordance with City and State requirements prior to their issuance of certifications and the placement of children with foster families. In addition, although ACS conducts post-certification audits to assess whether required steps were taken and documented for recently certified and recertified foster care families, we found that ACS is not utilizing this tool effectively. We identified deficiencies in both the methodology employed to conduct these audits and the agency’s follow-up on issues that are noted during the audits. As a result, we found that, when using ACS’s methodology, 9 (24 percent) of the 37 homes that ACS found to be compliant with City and State certification requirements during its audits lacked the requirements for certification. For those foster homes that ACS audits determined to not be in full compliance with applicable City and State requirements, the length of time that these homes were certified prior to the ACS audits ranged from 90 to 484 days; 7 of these homes were allowed to recertify in the following year, while they continued to be out of compliance.

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<sup>2</sup> The results of which are referred to by ACS as the Foster Parent Training and Certification Records audit.

A significant factor that directly contributed to the above weaknesses is that ACS management has failed to develop, implement, and employ procedures and measures to effectively monitor and oversee its contracted foster agencies with regard to the foster care certification process.

## **Audit Recommendations**

To address the issues raised by this audit, we make the following four recommendations:

- ACS should develop a review process that ensures that foster care providers do not certify prospective foster care families until the providers have collected the required evidence to demonstrate that the families have met the City and State's requirements.
- ACS should set deadlines for providers to correct all deficiencies identified in the annual audits.
- ACS should implement procedures that require staff to follow up on the annual audits to ensure that providers either correct all deficiencies identified in those audits or work with ACS to develop a plan to correct them.
- ACS should update and adhere to its audit methodology so that it checks for all documents required for a certification, includes all homes as part of its audit size, limits the advance notice it provides, independently confirms information about the foster family status of families selected for audit, and ensures that it selects the required number of families to audit.

## **Agency Response**

In its response, ACS generally disagreed with the audit's findings. However, after carefully reviewing ACS's comments, we find no basis to alter any of the findings of this report. Regarding the audit's recommendations, ACS believes that it is already in compliance with three of the four audit recommendations, stating that these three recommendations reflected the agency's current practices. ACS disagreed with the remaining recommendation that it develop a review process to ensure that foster care families are not certified until the associated foster care providers have collected all prerequisites, arguing that the recommendation was not needed because the State empowered and authorized providers to conduct such certifications.

# INTRODUCTION

## Background

ACS works to ensure the safety and well-being of children and families residing in the City by providing child welfare, juvenile justice, and education services. Through its Contract Management and Program Innovation unit, ACS contracts with private nonprofit organizations to support and stabilize families at risk of a crisis through preventive services, and provides foster care services for children not able to safely remain at home. ACS currently has contracts with 23 nonprofit foster care providers for a total amount of \$1,067,312,031.

OCFS regulates and supervises foster care in the State. For counties outside of the City, a local Department of Social Services manages the respective county's foster care services. Within the City, this responsibility lies with ACS. When children are placed in foster care, the Family Court gives the ACS commissioner "temporary custody of the children."

In accordance with ACS's contracts with nonprofit foster care providers, the providers are responsible for certifying individuals' eligibility to be foster parents based on certification requirements set forth in Title 18, paragraph 443.2, of NYCRR. Each provider has a Home Finding Department for this purpose. The Home Finding Department conducts the certification process through which it is supposed to ensure that each prospective foster family meets all regulatory requirements before foster children can be placed in their care. Home Finding staff interviews prospective foster parents, collects documents, provides necessary training, performs home studies to assess the conditions of the home to ensure that it is a safe and suitable environment, and obtains required references. OCFS authorizes the providers to issue the required certification to foster parents. Foster homes must be recertified on an annual basis; each provider's Home Finding Department is also responsible for completing the recertification for each foster family under its purview.

OCFS requires that the following prerequisites be met in order for anyone to be certified as a foster parent:

- *Training* – foster parents must receive parenting training to ensure that they have knowledge of how to properly care for the foster child. This training is conducted by the contracted providers as part of the foster parent application process. Newly certified foster parents who are not relatives of the child are required to receive a minimum of 30 hours of training, emergency relative foster parents are required to a minimum of 15 hours of training, and all recertified parents are required to receive at least six hours of training annually. Foster parents may need to complete additional training in situations where a foster child requires special medical or therapeutic care.
- *Medical Exams* – all household members must be in good medical condition and must be tested for TB before a foster child can be placed in the home. OCFS requires that subsequent to the first year of foster care provision, each member of a foster family must obtain medical clearance and a TB screening (or clearance) every two years.<sup>3</sup> ACS follows OCFS's two-year requirement for medical screenings; however, ACS requires that each member of a foster family obtain a TB screening every year.

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<sup>3</sup> Based on a family's medical history, a physician may determine that a TB screening is not needed. For the purposes of this audit, where such a determination was documented in a foster parent's file, we considered the TB screening requirement to have been met.

- *FBI/and SCR Clearance* – foster parents, and any household member who turns 18 years of age prior to or during the placement period of a foster child, must be cleared through a check of criminal records maintained by the FBI and a separate check of the SCR so as to ensure that the household is a safe environment for the foster child.
- *Home Study Narrative* – a social worker must visit the prospective foster home to determine whether it meets the State’s physical space requirements, such as the installation of window guards where necessary, an appropriate number of beds, and overall cleanliness. A new home visit must be performed annually when the foster family re-certifies, which becomes part of a re-authorization narrative.
- *References* – upon initial certification, all foster parents must provide three references who can attest to the character of the foster parent.

According to the ACS-contracted providers we interviewed in connection with this audit, OCFS does not review the documentation that has been compiled by the providers prior to the issuance of the certification. However, ACS’s procedures require its PAMS unit to perform an annual Foster Parent Training and Certification Records audit of a sample of each contracted foster care provider’s home files for its newly certified and first year re-certified foster parents. The purpose of these audits is to determine whether providers have evidence that the required steps were performed and required documents were collected prior to certifying parents to provide foster care.<sup>4</sup> ACS records the results of the audits on checklists, which are transcribed onto Compliance Tracking Sheets and reports the findings to the providers, who have 10 business days to respond. For each finding, the provider can either: (1) submit documentation showing that the deficiency was corrected; or (2) inform ACS of the corrective measures it plans to take to resolve the issue.

## Objective

To determine whether ACS ensures that ACS-contracted foster care agencies certify foster parents in accordance with criteria set forth in City and State laws and regulations.

## Scope and Methodology Statement

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope of this audit was Fiscal Years 2017 and 2018 (July 1, 2016 – June 30, 2018). Please refer to the Detailed Scope and Methodology at the end of this report for the specific procedures and tests that were conducted.

## Discussion of Audit Results with ACS

The matters covered in this report were discussed with ACS officials during and at the conclusion of this audit. A preliminary draft report was sent to ACS and discussed at an exit conference held

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<sup>4</sup> The Compliance Tracking sheets are Excel format summaries of the information noted on the audit checklists.



February 14, 2019. On March 21, 2019 we submitted a draft report to ACS with a request for comments. We received a written response from ACS on April 4, 2019.

In its response, ACS believes that it is already in compliance with three of the audit's four recommendations, stating that these recommendations reflected the agency's current practices. ACS disagreed with the remaining recommendation that it develop a review process to ensure that foster care families are not certified until the associated foster care providers have collected all prerequisites, arguing that the recommendation was not required because the State empowered and authorized providers to conduct such certifications and not needed because ACS's current review process of certifications is "more comprehensive than that which is required by the State."

ACS strongly objects to the audit's findings, claiming that the audit misinterpreted the agency's responsibilities. In support of this claim, ACS disregards its responsibility for overseeing the nonprofit organizations it contracts with to provide foster care services and its ultimate responsibility for the children in its care. ACS instead cites other activities it engages in, that were not the subject of the audit, suggesting that these activities, which are performed *after* the placement of a child, obviate its need to ensure that foster families are properly certified *prior* to placement. Additionally, ACS argues that OCFS and the contracted foster care providers—not ACS—are responsible for the certification process.

However, both ACS officials and the providers acknowledged during the course of the audit that OCFS relies entirely on self-certifications by the nonprofit providers that foster families have been fully vetted and that it does not review any records prior to the issuance of the certifications. Moreover, as also noted in the report, ACS's mission is to ensure the safety and well-being of New York City children. The New York City Charter assigns ACS the responsibility of being the temporary caregiver of all City children placed in foster care, as does OCFS in its New York State Foster Parent Manual. ACS never relinquishes its legal obligation for those children for as long as they are in foster care. Therefore, ensuring that foster homes are properly certified remains an integral part of ACS's responsibility.

ACS implicitly acknowledges its responsibility for the certifications of foster families through its audits of the certification process that it *does* conduct, albeit *after* the certificates are issued. ACS's practice of conducting such audits contradicts its claim that it has no responsibility for its contracted providers' vetting of foster families. In its audit response, ACS fails to explain how it would bear no responsibility for the adequacy of home certifications *prior* to the placement of children in foster homes when it does assume responsibility for its contracted vendors' certifications *after* the children are placed in foster homes.

Rather, ACS also attempts to recast the audit objective to be an assessment of its overall oversight of the foster care providers and cites a number of controls that it believes contribute to oversight, including conducting monthly safety checks of each provider to ensure that every child and family is being visited within required time frames and generating monthly, quarterly, and annual reports that highlight providers' performance. However, as noted, the focus of this audit was on the certification process only; as we explicitly state in the audit objective, this audit sought "to determine whether ACS ensures that ACS-contracted foster care agencies certify foster parents in accordance with criteria set forth in City and State laws and regulations." We did not assess the adequacy of ACS's overall oversight of foster care providers and therefore cannot confirm that these other controls cited by ACS are operating in the manner portrayed by the agency.

ACS also questions our methodology and sample selection in an attempt to undercut the audit findings of multiple oversight weaknesses. However, in doing so, ACS relies on faulty

assumptions and misstates (or omits) certain facts. Specifically, in its response, ACS takes issue with the following:

- *Criteria Used to Review Kinship Homes* – ACS incorrectly claims that the report does not accurately reflect the requirements for kinship homes, which the State grants some flexibility in its guidelines for certification. However, the audit acknowledges that kinship homes have less stringent criteria than regular foster care homes (see footnote #5 of the report) and any criteria specific to kinship homes was applied accordingly, as we discussed in significant detail with ACS.
- *Small Sample Selection* – ACS believes that our sample selection of 3 providers is not representative of its 24 family foster care agencies. However, this argument is based on the incorrect assumption that the foster care agencies were the focus of our audit. They were not. The focus of our audit was on ACS and its oversight of the contracted providers with respect to home certifications. As explained to ACS on several occasions, our findings are based on an assessment of ACS’s internal controls relative to the certification of foster homes. We conducted an in-depth review of three providers to determine the potential (or actual) impact of the control deficiencies identified during our assessment of those controls, not to statistically project the results of our reviews to the larger population of providers.
- *Sample Methodology* – ACS claims that it is “unaware of the methodology used by the Comptroller to determine the number of foster home files reviewed per provider agency.” Our methodology is clearly outlined within the Scope and Methodology section of this report. Additionally, we explained our audit methodology and the basis for our sample selection to ACS officials in detail during the audit and at the exit conference. Regarding ACS’s claims that our sample “appears to have had an overrepresentation of kinship foster homes” and “foster homes that had been certified and supervised for two years or more,” we note that 62 of the 110 files were randomly selected and, as such, the make-up of the population was outside of our control. Regarding the remaining 48 files, the report clearly states that they were judgmentally selected from the homes that ACS itself audited during Fiscal Year 2017.
- *Disproportionate Review of Records at Children’s Village* – ACS argues that this is the smallest of the three providers, yet we reviewed the most files for this provider. However, ACS fails to point out that, although Children’s Village had the fewest number of foster homes, it had the largest noncompliant rate cited by ACS. (We based the number of files included in our judgmentally selected sample on the number of files that ACS found during 2017 audits to be non-compliant.)
- *Missing Prerequisites* – ACS’s claim that we did not share with them the specifics of whether the missing training records we cite in the report were missing in whole or in part is false. At the request of ACS officials, we submitted the details of that test to ACS on February 20, 2019. ACS further takes issue with the fact that we tested certain prerequisites—TB screenings and reference letters—that are not part of ACS’s audit criteria. However, the pre-requisites selected for our review—which include the TB screenings and reference letters—are required by State Law.

This report also clarifies certain information from the draft report relating to our tests to ascertain whether TB screening requirements were met. After carefully reviewing all of ACS’s arguments, we find no basis to alter any of the findings of this report.

The full text of ACS’s response is included as an addendum to this report.

## FINDINGS AND RECOMMENDATIONS

ACS does not have adequate oversight over the foster care certification process performed by its contracted foster care providers. As a result, during Fiscal Year 2017, 81 percent of the 110 sampled foster home files that we reviewed were missing evidence of one or more of the prerequisites required for a family to be certified to provide foster care—specifically: (1) training; (2) medical exams; (3) FBI and/or SCR clearance; (4) a home study narrative; and (5) references.

We found that ACS has no process in place to independently verify that its contracted foster care providers are properly certifying prospective foster care families in accordance with City and State requirements prior to their issuance of certifications and the placement of children with foster families. In addition, although ACS conducts post certification audits to assess whether required steps were taken and documented for recently certified and recertified foster care families, we found that ACS is not utilizing this tool effectively. We identified deficiencies in both the methodology ACS employed to conduct those audits and the agency's follow-up on issues that it uncovered during the audits. As a result, we found that, when using ACS's audit methodology, 9 (24 percent) of the 37 homes that ACS found to be compliant with City and State certification requirements during its audits were in fact not compliant because they lacked the requirements for certification. For those foster homes that ACS audits determined to not be in full compliance with applicable City and State requirements, the length of time that these homes were certified *prior* to the ACS audits ranged from 90 to 484 days and 7 of them were allowed to *recertify* during the following year, while they continued to be out of compliance.

These weaknesses, if not corrected, increase the risk to the health and welfare of an already vulnerable group of children.

The details of our findings are discussed in the following sections of this report.

### **Weaknesses in ACS's Oversight of the Foster Care Certification Process**

We found weaknesses in ACS's oversight of whether its contracted foster care providers ensure that the families meet the State and City requirements prior to the families being certified and recertified and prior to children being placed with them. We also found weaknesses in ACS's post-certification audits of the certifications issued by its contracted providers. ACS is entrusted with the temporary custody of foster children and these weaknesses in its oversight diminish ACS's ability to ensure that only those households that have met the required criteria are allowed to become foster parents.

#### **ACS Does Not Ensure That the Certification Process Has Been Properly Conducted Prior to the Issuance of Certificates to Foster Parents**

ACS has not developed a process to independently verify that prospective foster care families, and those foster families requiring recertification, are properly certified by the foster care providers prior to their being certified as foster parents. As a result, we found that during Fiscal Year 2017, 81 percent of the 110 sampled foster home files that we reviewed were missing one or more of the prerequisites required for a family to be certified to provide foster care.

As stated previously, contracted foster care providers—through their respective Home Finding Departments—are responsible for conducting the certification process. However, ACS does not conduct any type of review to determine whether all prerequisites were met before the provider certifies a family to provide foster care. During the audit, ACS officials initially argued that since OCFS verifies whether the requirements are met prior to the issuance of foster care certification, ACS has no need to duplicate the review. However, according to the providers, and confirmed by ACS officials at the exit conference, the contracted foster care providers merely self-certify to OCFS that the foster parents have met all of the requirements. The providers do not provide OCFS with any records to review prior to the issuance of the certifications. As a result, ACS does not have a reasonable basis for relying on OCFS's verification that the certifications were properly issued.

While responsibility for children in foster care is delegated through ACS contracts to foster care providers and the foster parents, ACS never relinquishes its ultimate legal responsibility for those children for as long as they are in foster care.<sup>5</sup> The New York City Charter specifically assigns ACS the responsibility of being the temporary caregiver of all City children placed in foster care. Moreover, we note that ACS's mission is to ensure the safety and well-being of New York City children. Therefore, ensuring that foster homes are properly certified should be an integral part of ACS's responsibility.

ACS's failure to independently verify the certification process of foster parents prior to the issuance of the certificates increases the risk that prospective foster parents who fail to meet one or more of the prerequisites may nevertheless be certified by the providers to serve as foster parents. As noted, our review of 110 foster home files found that 89 files (81 percent) were missing evidence of one or more of the prerequisites required by both OCFS and ACS for certification: training; medical exams; FBI/SCR clearances; Home Study Narrative; and references.

Our audit of 110 sampled foster home files revealed the specific deficiencies highlighted in Table I below.

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<sup>5</sup> OCFS delegates the certification of foster parents to local Department of Social Services; in New York City, ACS is the local Department of Social Services. In turn, ACS delegates the responsibility of the certification process onto contracted providers.

**Table I**  
Foster Care Home Files Missing  
Prerequisites for Certification

				<b>Breakdown of the Number of Foster Home Files with Missing Prerequisites</b>			
Provider	Number of Foster Home Files Reviewed Per Provider	Number of Foster Home Files with Missing Prerequisites	Number of Foster Home Files with Two or More Missing Prerequisites	# of Files with One Missing Prerequisite	# of Files with Two Missing Prerequisites	# of Files with Three Missing Prerequisites	# of Files with Four Missing Prerequisites
Catholic Guardian	26	14 (54%)	5	9	4	1	0
Children's Village	51	45 (88%)	24	21	17	6	1
Jewish Child Care Associate	33	30 (91%)	14	16	9	5	0
<b>Total</b>	<b>110</b>	<b>89 (81%)</b>	<b>43</b>	<b>46</b>	<b>30</b>	<b>12</b>	<b>1</b>

As reflected in Table I, above, 43 (48 percent) of the 89 foster home files with missing prerequisites, were missing two or more items that both OCFS and ACS required for the homes' certification, each of which is integral to ensuring that children are placed with trained and qualified families in safe environments. Although 9 of the 89 sampled foster homes with missing prerequisites did not have any foster children residing in them during the scope period of our audit, the foster parents were certified and therefore eligible to take in children. The remaining 80 households had foster children residing in their homes during the audit scope period; 48 of those foster families had children that had been residing with them for 100 to more than 300 days while the families, based on the providers' records, did not have the prerequisite eligibility requirements.

A breakdown of the exact prerequisites that were missing from the foster home files is shown in Table II.

**Table II**  
Specific Prerequisites Missing From  
Foster Home Files

Provider	Number of Foster Home Files Reviewed	Foster Home Files with Missing Prerequisites				
		Training	Medical Clearance /TB Screening	FBI/SCR Clearance	Home Study Narrative and Re-authorization Narrative	References
Catholic Guardian	26	10	4	3	1	2
Children's Village	51	30	24	7	6	10
Jewish Child Care Associates	33	14	24	6	0	5
<b>Total</b>	110	54 (49%)	52 (47%)	16 (15%)	7 (6%)	17 (15%)

**ACS Response:** “State regulations require that a tuberculosis screen, or other additional related tests, be conducted only if a medical professional, upon conducting a review of the foster family’s general health for indications of illness or other physical conditions which might affect the proper care of a foster child, determines that such a screening is deemed necessary. The comptroller’s audit concluded that any file missing tuberculosis screening information failed to meet the medical documentation requirements for certification, which is misleading.”

**Auditor Comment:** ACS’s own procedures require that each foster family’s file contains a Tuberculosis Clearance Form, which is to be completed by a physician. This requirement was emphasized in a July 27, 2011 memorandum issued by ACS’s then Commissioner to agency staff containing audit instructions relating to TB screenings. (See Appendix I and II for copies of the clearance form and memorandum, respectively.) As we explained to ACS officials at the exit conference for this audit, we merely tested against ACS’s own audit criteria.

The specific deficiencies reflected in Table II are significant. For example, our review of a file for one of the foster parents in our sample revealed that it was missing the required medical and TB screenings along with a home study narrative. This home had fostered children since October 2013. Although its most recent certification had expired on January 6, 2017, a child was still placed with the foster parent three months later (April 4, 2017) and resided for nearly a year in a home that was no longer certified. Based on our review of the records, one of the household members lacked TB screenings throughout the entire time that the child resided in the home. In addition, when the provider no longer considered this foster home to be active, nearly one year later (March 30, 2018), the Home Finding Director reported that the foster parent had “failed to comply with regulations in terms of having her own suitable housing.” The basis for that finding was that the foster parent first lived in the same home with her sister and later with her mother, who was also fostering a child. OCFS regulations do not permit certification of two separate foster parents at one address. This issue presumably would have been detected before the second foster parent was certified had a home study been conducted.

In another example, our review of an ACS provider’s file for another foster family revealed that it was missing: (1) medical clearances and TB screenings for four of the five household members who resided in the home; (2) evidence of training; and (3) references. The foster parent, who had

four biological children living in the same household, was assigned three foster children, the last one being assigned on November 21, 2017. Our review occurred eight months after the home was certified.

In a third example, a child was placed into an emergency kinship home on May 12, 2017. At the time of our review on April 26, 2018—over 11 months after the child’s placement—the emergency home study, which was the only prerequisite that should have been immediately performed, had not been conducted, and neither had the regular home study, which at the time of our review, had been outstanding for eight months.<sup>6</sup> Although the family eventually provided references and evidence of TB screenings, both were submitted late—by five and seven months, respectively.

During the exit conference, ACS officials stated that the agency has no role in overseeing the certification of foster parents by its contracted foster care providers and contended such a role is not necessary because the agency has numerous other controls in place to assess the safety and overall well-being of the children concerned. According to ACS, these controls include its establishment of performance indicators that include the results of annual audits, the annual evaluation process of each provider’s performance,<sup>7</sup> investigations performed by ACS’s Child Protective Services, and the assignment of caseworkers, attorneys and judges to work with the children in foster care. However, we note that the controls identified by ACS are mainly reactive and not proactive and are used to address issues only *after* the child has already been placed in the foster parent’s care. As such they do not supplant the need for effective oversight of the certification process prior to a child’s placement in a foster home, which currently is lacking.

## **ACS Audits of Certified Foster Families Are Inadequately Designed and Poorly Conducted**

ACS’s annual audits of foster family files are inadequate, poorly conducted, and do not provide appropriate oversight of the certification process. As a result, ACS’s audit findings in this area are frequently incorrect and inaccurately report compliance with certification requirements in instances of noncompliance. As described above, ACS performs annual audits of contracted providers’ foster family files for newly certified and first time recertified foster families to assess whether the provider is placing children into certified homes and to alert ACS if there are any deficiencies with the certification process employed by the foster care provider.

However, using ACS’s methodology for these audits, we reviewed 47 foster home files maintained by different contracted providers that had been audited by ACS during its 2017 audit cycle and found that our result was different from that of ACS for 10 of the 47 foster home files. Specifically, ACS’s audits determined that 10 of the 47 foster homes were not compliant with all of the necessary certification requirements and that 37 foster home files demonstrated compliance. However, our review found that 1 of the 10 foster homes ACS found noncompliant was compliant and that 9 (24 percent) of the 37 foster homes that ACS found compliant were, in fact, missing critical documents and therefore noncompliant. In fact, the providers’ files for 5 of these 9 homes were each missing two of the required documents.<sup>8</sup>

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<sup>6</sup> For emergency kinship placements only, the provider has 90 days to conduct the regular home study, and the family has 90 days to provide evidence of TB screenings and references. In other types of placements, these prerequisites are required prior to placement. At the time of our review, 11 months after placement, neither of these had been done.

<sup>7</sup> Collaborative Quality Improvement.

<sup>8</sup> Among these, three homes did not have evidence of training and medical records, one home did not have evidence of SCR/FBI clearances and of medical records, and one home did not have evidence of SCR/FBI clearances and training.

As discussed further below, ACS's implementation of its audits has weaknesses that, if not addressed and corrected, limits the effectiveness of such audits as a monitoring tool.

### *ACS Does Not Ensure That All Deficiencies Noted during the Audits Are Corrected*

ACS did not consistently ensure that the providers resolved the deficiencies ACS cited in its annual audits and did not establish procedures for following up on those deficiencies. We requested but received very limited evidence from ACS to indicate that the agency regularly and actively follows up on these issues. Instead, ACS reports the findings of its audits to each provider via letter, and the provider is informed that it must reply to the findings within 10 days, via letter as well, either informing ACS that it is working on a solution or providing evidence that the issues were corrected. However, ACS does not consistently establish deadlines for the providers to resolve the issues identified in its audits. As a result, we found that nine months after ACS sent out the letters notifying the providers of their non-compliance, 5 of the 21 non-compliant providers still had not obtained all of the evidence that ACS's audit found was missing—and necessary—to establish that the foster parents they certified met the applicable requirements.

By not ensuring that its contracted foster care providers resolve the deficiencies its audits uncover, ACS minimizes the importance of the providers obligation's to ensure that the foster families they certify meet the certification requirements and undermines the effectiveness of the statutory requirements and the agency's own requirements that foster families be certified as appropriate in order to be allowed to take in foster children. As a result of the weaknesses in ACS's procedures, children continue to reside in homes where the foster parents have not been properly certified to provide for the children's care. Our review of ACS's 2017 audits found that seven of the nine homes that ACS found to be out of compliance were allowed to recertify in the following year, notwithstanding the fact that they continued to be out of compliance.<sup>9</sup> The length of time that these homes were certified prior to the ACS audits ranged from 90 to 484 days, which allowed foster parents found to be "not in compliance" to care for children.

### *Weaknesses with ACS's Audit Methodology*

We identified a number of weaknesses with the audit methodology used by ACS that undermined the effectiveness of its audits:<sup>10</sup>

- *Not all requirements are verified during the audits.* ACS does not review a foster home's compliance with all of the requirements established by ACS and OCFS for certification. Of the five requirements for certification, ACS's audit protocols mandate review of only three: the SCR/FBI clearances, the home study, and the training. ACS does not insist on compliance with its own standard that TB screenings be performed within the 12-month period immediately preceding the foster parent's initial certification and then again every year before each recertification. Rather, ACS only checks for evidence of the family's compliance with the less stringent OCFS requirement that TB screenings be performed every two years. As a result, we found that 8 homes that ACS determined were compliant during its 2017 audit did not meet ACS's one-year TB screening requirement. In addition, ACS does not check for *any* references during its audits, notwithstanding OCFS's requirement that a prospective foster family must have three reference before being certified to foster children. As a result, we found that the providers' files for 19 newly

<sup>9</sup> Two of the nine homes did not seek recertification.

<sup>10</sup> We reviewed documentation and correspondence concerning ACS's audits of the foster home files of all providers under contract with ACS at the time of our audit. ACS performed 24 such audits during Fiscal Year 2017, one for each provider under contract with ACS at that time.



certified homes included in ACS's 2017 audits did not contain the required three references—9 homes had none, 2 homes had one, and 8 homes had two—and these deficiencies were not cited in those audits.

- *ACS does not review homes after the first year of recertification.* Based on ACS's current methodology, ACS annually audits up to 60 newly certified homes per provider, up to 20 first-time recertified foster homes, and no homes after their first year's re-certification.<sup>11</sup> This methodology increases the risk that recertified homes that have not demonstrated that they fulfilled all requirements for recertification will nonetheless be allowed to care for foster children indefinitely. Our review of the previously-mentioned sample of 110 files for certified foster homes found that recertified foster homes were missing evidence of the required training, medical exams, and home study narratives at approximately the same rate as the newly certified homes—81 percent of the files for the recertified homes we reviewed did not have all necessary documents as compared to 79 percent of the files we reviewed for the homes that were newly certified.
- *ACS's audit methodology allows providers to inappropriately influence the audit results.* While ACS selects a sample of foster families to audit each year, it shares that population with the providers approximately two months in advance of the audit and asks the providers to identify or verify ACS's identification of closed homes, homes that are incorrectly categorized based on the types of services offered by the provider, or those listed with any other errors. Notably, ACS accepts the changes suggested by the providers without any independent verification. In doing so, ACS allows the providers to suggest changes to the population of records under review—changes that may ultimately impact the sample selection for audit purposes. For example, although ACS data may indicate that a home is classified as a new certification, the provider could tell ACS that it is a recertified home and thereby eliminate that particular home from ACS's sample selection. Such a change, if incorrect, could have the effect of preventing the foster family's file from ever being audited, given the infrequency of first-year recertification audits and the fact that no recertifications are audited after the first year. In addition, two weeks prior to its review of the files, ACS shares its final samples with the providers, which affords them the opportunity to create documents that were missing from the selected files. Consequently, ACS incurs an increased risk that providers could conceal ongoing deficiencies and thereby prevent ACS from obtaining an accurate assessment of the providers' performance.
- *ACS does not follow its own sample methodology for testing purposes.* As noted above, ACS's methodology calls for a specific number of homes to be tested. For 2017, ACS's methodology dictated that it review 161 foster home files for the 3 sampled providers. However, ACS reviewed only 134 foster home files for these providers.

Audits are an integral part of an agency's internal control structure and enable an agency to better ensure that the program goals, objectives, and basic standards are being met.

ACS management has failed to establish and implement effective oversight procedures which has increased the risk that foster families and homes may not undergo a sufficiently stringent review and that children may be placed in unsafe environments.

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<sup>11</sup> ACS methodology states that the homes should be randomly selected in the following manner: (A) new homes up to 60, to include the following types of homes: 20 regular, 10 emergency/kinship, 10 therapeutic, 10 special medical, and 10 therapeutic "Oregon Program" (different type of therapeutic approach); (B) first year recertified homes up to 20 homes selected from all types of homes.

## Recommendations

1. ACS should develop a review process that ensures that foster care providers do not certify prospective foster care families until the providers have collected the required evidence to demonstrate that the families have met the City's and State's requirements.

**ACS Response:** "ACS disagrees with this recommendation, since certification of foster parents is the purview of the State, in that the State has empowered authorized agencies to conduct such certification. As noted above, these authorized agencies are our contracted foster care provider agencies. ACS does not conduct a review prior to certification to verify that provider agencies have collected the required documentation, and to do so would interfere with the State's certification process as outlined in 18 NYCRR 433.

ACS' current review process of certification and approval files and documentation is more comprehensive than that which is required by the State and is only one component of ACS' broader monitoring of agency practice and performance."

**Auditor Comment:** ACS cites no specific provision contained in 18 NYCRR 433 that precludes it from taking steps to help ensure that foster care providers are properly certifying foster homes. Consequently, in the absence of evidence to the contrary, we find ACS's argument that conducting a review prior to certification interferes with the State's certification process to be without merit. Accordingly, we urge ACS to reconsider its response and implement this recommendation.

2. ACS should set deadlines for providers to correct all deficiencies identified in the annual audits.

**ACS Response:** "ACS agrees, in that this is already ACS practice, which is reflected in ACS' audit reports issued to each provider agency... Once the audit results are shared with the provider agency, the assigned ACS monitor for each provider agency follows up to obtain resolution within a designated timeframe that appropriately reflects the nature of the missing documentation... The provider agency must either produce the missing item or submit a plan, with a due date specified, for how and when each deficiency will be addressed, which ACS then monitors until it is completed."

**Auditor Comment:** As indicated in the report, ACS sent out the letters notifying the providers that they had 10 days to correct the deficiencies cited in audits or if unable to correct within 10 days, submit an expected date of completion. We found that nine months later, 5 of the 21 non-compliant providers still had not corrected the deficiencies and we found no evidence that these providers informed ACS when those deficiencies would be corrected. We therefore urge ACS to follow its stated procedures.

3. ACS should implement procedures that require staff to follow up on the annual audits to ensure that providers either correct all deficiencies identified in those audits or work with ACS to develop a plan to address them.

**ACS Response:** "ACS agrees, in that this is a current ACS practice. [...] ACS has a rigorous performance monitoring process for all providers and programs which includes the review of individual cases, the implementation of improvement plans for every provider program, and the issuance of a public scorecard which notes a provider's overall performance for the fiscal year."

**Auditor Comment:** As our audit found, seven of the nine homes that ACS found to be out of compliance were allowed to recertify in the following year although the areas of noncompliance had not been corrected and we found no evidence of a plan to correct them. Accordingly, we urge ACS to ensure that deficiencies identified during audits are corrected before homes are allowed to recertify.

4. ACS should update and adhere to its audit methodology so that its audit staff checks for all documents required for a foster parent's certification, includes all foster homes as part of the potential audit scope, limits the advance notice that ACS provides to its contracted foster care agencies regarding the audits, independently confirms information its contracted foster care agencies provide about the status of the foster families whose files are selected for audit, and ensures that it selects no fewer than the required number of foster families' files for each audit.

**ACS Response:** "ACS adheres to the audit methodology it developed as one component of its oversight of agency practice and performance, and which establishes a higher standard than that mandated as a Local District of Social Services with oversight of foster care provider agency practice. ACS focuses its resources on the certification documents most directly related to foster home safety and suitability, including foster parent training, medical clearances, criminal background clearances, and the clearance for abuse or neglect history by the Statewide Central Register, and confirms that a home study has verified that the home is fully prepared and appropriate for a foster child's placement.

The current sample is representative of the number of newly certified homes of each provider program. Thus, for larger foster care agencies, ACS' audit reviews certification and initial recertification files for as many as 70 foster homes, and for many smaller agencies, ACS' audit reviews all newly certified and initially recertified homes.

Notification to the providers in advance of an audit serves more than one purpose. Notice is given to ensure that the records needed are on site when the reviewers arrive – as many of ACS' contracted agencies have multiple sites; such coordination is necessary to make sure that files are available for an in-person review when the reviewer arrives. On-site visits must be planned to ensure that each reviewer's time is maximized and spent reviewing files and other documentation, rather than awaiting the arrival of files."

**Auditor Comment:** Although annual TB screenings and references are required for certification, ACS acknowledges that it does not review a foster home's compliance with those requirements. We merely recommend that ACS monitor full compliance with State (and its own) requirements.

With regard to ACS's audit selection methodology, the unintended consequence of only auditing homes that are newly certified or initially recertified is that those homes with deficiencies that are *not* selected for audit during that period of time will *never* be audited, meaning there is an increased risk that those deficiencies will never be uncovered and those families will be allowed to continue caring for children.

Finally, we find ACS's justifications for providing advance notice to providers of the files selected for audit unpersuasive. As stated in the report, ACS's current practice allows providers, among other things, an opportunity to create documents

that were missing from the sampled files. To ensure that files are available for review, ACS can ask providers to supply ACS with a list of all of its foster home files and the sites where they are located. ACS can then simply choose a site and select its sample from the files stored at that location.

We therefore urge ACS to update and adhere to its audit methodology.

## DETAILED SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope of this audit was Fiscal Year 2017 and 2018, which covers the period July 1, 2016 through June 30, 2018.

To accomplish our objective and to obtain an understanding of the certification process and ACS's oversight of the providers, we met with various ACS officials, including the Assistant Commissioner of Agency Program Assistance (APA) and Provider Agency Measurement Systems (PAMS), the Executive Director, Deputy Director, and monitor of APA, as well as the Director, managers, and quality assurance supervisors of PAMS.

To obtain an understanding of the providers' foster care certification processes, we judgmentally selected three providers from the list of 23 providers that ACS contracted with during Fiscal Year 2017. Our selection was based on the three providers who provided the greatest variety of foster care services—Jewish Child Care Associates, Catholic Guardian, and Children's Village.<sup>12</sup> To ascertain the roles and responsibilities of the providers, we interviewed the staff and management from the three contracted agencies. To assess the adequacy of ACS's controls as they relate to our audit objective, we evaluated information obtained during these interviews, as well as various supporting documents ACS provided to us.

To assess the guidelines and standards for ACS to follow, we reviewed the following:

- New York State Law 18 NYCRR Part 443 Certification, approval, and supervision of foster family boarding homes
- OCFS Regulations for Certified and Approved Foster Family Boarding Homes & Regulations for Designated Emergency Foster Family Boarding Homes
- OCFS Administrative Directive 16-OCFS-ADM-20 Fingerprinting and Criminal History Record Checks for Foster and Adoptive Parents
- OCFS Administrative Directive 17-OCFS-ADM-05 Use of the Foster and Adoptive Home Development (FAD) Stage in CONNECTIONS
- OCFS Administrative Directive 18-OCFS-ADM-07 Foster/Adoptive Home Certification or Approval Process
- New York State Foster Parent Manual issued by OCFS in 2010
- Current ACS's contracts with providers

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<sup>12</sup> There are various types of foster care services, including regular, emergency/kinship, therapeutic, special medical and therapeutic "Oregon Program" (a specific type of therapeutic approach).

- Commissioner's Memorandum issued to providers on July 27, 2011 explaining medical examination and TB screening requirements
- Comptroller's Directive #1 – *Principles of Internal Control*

To gain an understanding of the way certification process is recorded, we conducted a walkthrough of CONNECTIONS (CNNX), a computer system developed and maintained by the State that contains information about families and children receiving child welfare services in the State. We attended a presentation session conducted by OCFS officials and interviewed ACS Solutions Architect, Acting Associate Commissioner of Data Analytics, and the Executive Director of Policy and Planning.

To test for the providers' compliance with obtaining the documents required for the certification process, we obtained from ACS the list of 4,685 foster homes in which CNNX data indicates that a foster child was placed as of January 15, 2018. To determine whether the list included data for all contracted ACS providers, we compared the list from CNNX to the list of providers that currently have contracts for foster care services with ACS. To test for the completeness of data, we first sorted the data by the family identification number and by foster family name to eliminate duplicate entries. We then reviewed the data to identify missing fields such as family name, name of provider, type of home, and family identification number.

From this list, we extracted the data for the same three providers that we selected for the purpose of our interviews: Catholic Guardian (362 foster homes); Children's Village (180 homes); and Jewish Child Care Association (292 foster homes), for a total of 834 homes. To test the accuracy of the data for each provider, we randomly sampled 10 percent of foster families for each provider and compared the information on the list to the information stored in the provider's physical file for each foster family. To determine whether the list maintained by each provider was complete, we judgmentally selected a total of 92 physical files maintained by the three providers and matched the details within the files to the information recorded on the list from CNNX.<sup>13</sup>

From the 834 foster homes of the three providers, we randomly selected 62 homes for a review of their files in regard to the certification process.<sup>14</sup> We also judgmentally selected an additional 48 homes from these providers. Our selection was as follows: (1) we judgmentally selected 10 foster homes with the highest numbers of issues out of 24 homes that ACS found to be noncompliant in its 2017 audits; (2) we randomly selected 37 of the 116 homes for which the 2017 ACS audits found no discrepancies; and (3) we included one home that ACS originally selected for testing, but that it did not review.<sup>15</sup> In total, we reviewed the files for 110 homes.

To obtain an understanding of ACS's audit results, we compared the list of documents reviewed by ACS during its audit to the list of the documents required to certify the foster home. We also compared the number of new homes to the number of recertified homes that ACS included in its audit, as well as the noncompliance results between the two groups. Furthermore, we reviewed the original population and final sample used by ACS for the 2017 audit, as well as the correspondence between ACS and providers in regard to the sample selection.

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<sup>13</sup> As part of our methodology for this test, we selected 35 files from Catholic Guardian, 39 from JCCA and 18 from Children's Village.

<sup>14</sup> Using this methodology, we selected 20 foster families from Catholic Guardian; 19 families from JCCA; and 23 families from Children's Village.

<sup>15</sup> Using this methodology, we randomly selected 6 foster families from Catholic Guardian; 14 families from JCCA; and 28 families from Children's Village.

Using ACS's audit methodology, we tested 47 of the 48 homes and compared our results with the results recorded on ACS's July 2017 Compliance Tracking Sheets.<sup>16</sup> We also used 47 of the 48 homes to identify the criteria employed by ACS for its audits (in regard to TB requirements and references).

To assess the effectiveness of ACS's follow-up with the providers concerning its audit findings, we extracted from the Compliance Tracking Sheets the 21 providers that ACS found to be non-compliant during 2017 and did the following:

- Reviewed the findings and the correspondence between ACS and the providers as related to the follow-up process.
- Matched the findings listed in the Compliance Tracking Sheet to the findings in the letters and the responses offered by the providers and assessed how many providers responded within the required timeframe and corrected the issues cited by ACS.

The results of the above tests, while not statistically projected to their respective populations, provided a reasonable basis for us to assess whether ACS ensures that ACS-contracted foster care agencies screen foster parents and ensure that foster homes meet the criteria set forth in the City and State laws and regulations.

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<sup>16</sup> One of the homes that we selected to test for Catholic Guardian was not the same home that ACS had tested during its audit. Although we kept the home as part of our tests for compliance with requirements, we excluded the home for other tests, such as comparing our audit findings to those of ACS.



John B. Mattingly  
Commissioner



Everyone must have a PPD, as per ACS in order to be a foster parent and have children placed in your home.

TUBERCULOSIS CLEARANCE FORM

The Division of Family Permanency of New York City Children's Services (ACS) requires an annual TB clearance for household members in order to complete foster care certification/approval and recertification/re-approval requirements. Please have your physician/healthcare provider complete this form as part of your certification/approval or recertification/re-approval packet. You will be cleared for certification/approval or recertification/re-approval if your healthcare provider certifies that your medical evaluation shows no evidence of active TB in Section IV below. At a minimum, your health care provider must complete Section I and Section IV in order for this form to be valid and complete. The name and license number of your healthcare provider must be printed legibly and this form must be signed and dated. Instructions on how to complete this form are also provided.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Social Security #: \_\_\_\_\_

Date of Birth: 2/14/03 PPD Info.

I. TB Screening for Risk Factors

The named person above is:  
 at no or low risk for TB (go to Section IV)  
 at risk for TB (proceed to section II)

Date: \_\_\_\_\_

Important Date

II. Test for TB infection

A. Skin Test or Blood Test  
The named person above has a:  
 negative TB test (go to Section IV)  
 positive TB test (proceed to part B)

Date: \_\_\_\_\_

4/15/17

B. Chest X-ray

The chest x-ray for the named person above is:  
 negative for TB infection (go to Section IV)  
 positive for TB infection (proceed to section III)

Date: \_\_\_\_\_

Read Date

III. Diagnostic Evaluation for TB Disease (chest x-ray, sputum, examination, etc.)

The diagnostic evaluation for the named person above is:  
 not consistent with TB disease (go to Section IV A)  
 consistent with TB disease (proceed to section IV B)

Date: \_\_\_\_\_

4/17/17

IV. I certify that the medical evaluation for the named person above:

A.  shows no evidence of active TB  
B.  shows risk for active TB and further evaluation is needed  
 referral/appointment made  
 referral/appointment not made

Date: \_\_\_\_\_

Oxym Negative (NH)

Health Professional's Name: \_\_\_\_\_ License # \_\_\_\_\_

Health Professional's Signature: \_\_\_\_\_ Tel. # \_\_\_\_\_

Date: 4/15/17

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## TUBERCULOSIS CLEARANCE FORM Instructions (for Patients and Healthcare Providers)

The TB Clearance Form is to be used to document that a member of a foster care household is not at risk for spreading TB based on an assessment by a healthcare provider. This form guides the user to perform/order TB-related tests only if they are clinically and medically indicated. It has four sections.

The first section documents TB screening using known risk factors. Screening is done based on a standard screening form (see enclosed form from the Department of Health and Mental Hygiene/DOHMH, as an example of a screening form). If the healthcare provider indicates "at no or low risk for TB" in the screen section, then the next 2 sections are to be left empty and the healthcare provider signs the last section. If the healthcare provider indicates "at risk for TB" in the screening section, then the next section should also be filled out.

The second section documents testing for TB infection. The first section must be filled out first before completing this section. A baseline TB skin test or blood test is performed if a person had never been tested previously, if the TB history is unknown, or if the healthcare provider decides, based on a history or physical examination that a TB test is needed. If an initial TB skin test is negative, 2-step testing must be done to rule out TB disease. This is not necessary if the negative TB test is a blood test. In 2-step testing, the skin test is repeated in 1-3 weeks, using the same tuberculin dose and strength. If the reaction to the second skin test is negative, the test is considered negative. If the reaction to the second skin test is positive, TB disease must be ruled out.

If the healthcare provider indicates "negative TB test" in the section II part A, then the next section is to be left empty and the healthcare provider signs the last section. If the healthcare provider indicates "positive TB Test" in section II part A, then part B (chest x-ray) needs to be filled out.

If an initial TB test is positive, TB disease is ruled out with a chest x-ray and a medical evaluation. If disease is ruled out (chest x-ray is negative), in the presence of a positive initial TB test, treatment for latent TB infection (with INH) may be started by the healthcare provider. If the chest x-ray is negative, then section III is skipped and the healthcare provider fills out the last section. If the chest x-ray is consistent with TB infection in the presence of a positive TB test, the next section (section III) should also be filled out. An abnormal chest x-ray should trigger further evaluation.

The third section documents TB disease. The second section must be filled out first before completing this section. In section III, the healthcare provider indicates that the diagnostic evaluation is either "not consistent with TB disease" or "consistent with TB disease". The next section (section IV) should also be filled out after completing this section.

The fourth section documents final medical clearance. At a minimum, the first section must be filled out first before completing this section. Section IV should always be filled out before the healthcare provider signs the form. If the healthcare provider indicates that the evaluation "shows no evidence for active TB" in Section IV A, no other step needs to be taken and the named person on the form is cleared. If the healthcare provider indicates that the evaluation "shows risk for active TB and further evaluation is needed" in Section IV B, a referral must be made for further evaluation and treatment.

Tuberculosis screening is done to determine a person's risk of infectiousness. In the foster care setting, we want to ensure that a child or youth in foster care is not at risk for acquiring a TB infection from any member of the foster care household. If there is a need for further testing after a positive TB test or because of the presence of symptoms consistent with TB infection, the Department of Health and Mental Hygiene offers free or low-cost testing at chest centers around the

<sup>1</sup>This is a suggested screening form, but the healthcare provider may use any other screening form similar to this one. The first page of the screening form is to be filled out by the patient before being seen by the healthcare provider.

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city (see enclosed list or go to <http://www.nyc.gov/html/doh/downloads/pdf/tb/tb-testing-all-facilities.pdf>). All test results (TB skin test, blood test, chest x-rays) should be made available at the time of the appointment at the chest center.

**Repeat TB Testing**

If a TB test had already been performed appropriately in the past, and the results are known, a repeat test may not be needed. The healthcare provider will decide if a repeat TB test is not necessary based on a physical exam<sup>2</sup> (no signs of disease) and medical history (including incarceration, occupational hazard, travel, exposure, and symptoms).

The healthcare provider will decide, based on a medical history and/or the result of a symptom checklist (see below), when a TB test should be repeated, or if other tests, such as a chest x-ray should be done. If an initial chest x-ray was negative after a positive TB test, a chest x-ray should not be repeated unless indicated by history or symptoms.

Healthcare providers may refer to the TB guidelines from the Department of Health and Mental Hygiene at <http://www.nyc.gov/health/TB> for further information.

**TB Symptom checklist:**

Please indicate if you are having any of the following problems for three to four weeks or longer:

1. Chronic Cough (greater than 3 weeks) Yes \_\_\_\_\_ No \_\_\_\_\_
2. Production of Sputum Yes \_\_\_\_\_ No \_\_\_\_\_
3. Blood-Streaked Sputum Yes \_\_\_\_\_ No \_\_\_\_\_
4. Unexplained Weight Loss Yes \_\_\_\_\_ No \_\_\_\_\_
5. Fever Yes \_\_\_\_\_ No \_\_\_\_\_
6. Fatigue/Tiredness Yes \_\_\_\_\_ No \_\_\_\_\_
7. Night Sweats Yes \_\_\_\_\_ No \_\_\_\_\_
8. Shortness of Breath Yes \_\_\_\_\_ No \_\_\_\_\_

<sup>2</sup> ACS is not requiring full or complete annual physicals in order for a healthcare provider to determine whether a test is needed or should be repeated once it has been completed in the past. A brief visit or interview may be all that is needed in order to determine that. The only ACS requirement is for the TB clearance form to be signed and filled out completely by the health care provider in order to document that the individual is not at risk for spreading TB. The healthcare provider and the clinically related circumstances of a specific individual will determine the need for any clinical procedure, including a physical.



John B. Mattingly  
Commissioner

July 27, 2011

Charles Barrios  
Deputy Commissioner  
Family Support Services

To Foster Care Agency Staff:

150 William Street  
18<sup>th</sup> Floor  
New York, NY 10038

The process of certifying/recertifying and approving/re-approving foster parents includes a determination that the household members do not pose a health and safety risk to a child or youth that will be placed with any foster family. Health and safety risks include the possibility of acquiring communicable diseases such as Tuberculosis (TB).<sup>1</sup>

212-341-8934 tel  
212-341-0946 fax

Children's Services must have documentation that a child will not be at risk for acquiring a TB infection from any household member of a current or potential foster home. Current or potential foster/adoptive parents must be medically cleared to care for an infant, child or adolescent as foster or adoptive parents. Any other household member must be assessed by a licensed healthcare provider for health risks and medically-related safety risks associated with having an infant, child or adolescent in the same household. The Tuberculosis Clearance Form, CM 1060 must be completed by the individual's healthcare provider within 12 months prior of every certification/recertification or approval/re-approval period and submitted to your agency's homefinder as part of a certification/recertification or approval/re-approval packet. The Medical Examination Report Form, CM 1062 must be completed by the individual's healthcare provider within 12 months prior to every certification or approval period and within 24 months prior to every recertification or re-approval period and submitted to your agency's homefinder as part of a certification/recertification or approval/re-approval packet.

For potential foster/adoptive parents, the healthcare provider may either complete and submit section II (A – F) of the medical examination report form, or attach a similar form (with all the required information) to sections I and III of the medical examination report form and include that with the certification/recertification or approval/re-approval packet. For all other household members, sections I, IIA and IV of the medical examination report form are required as part of the complete packet. The TB clearance form and the medical examination report form will only be considered complete if signed and dated by a licensed health professional. Both forms include instructions on how to complete them appropriately.

If you have any medical questions, please contact Dr. Angel Mendoza at 212-341-4132. If you have any program questions, please contact Janet Dawoodi at 212-341-3331 or Carolyn Rabolt at 212-341-3339.

<sup>1</sup> 18 NYCRR Part 443.2 Certification, Approval and Supervision of Foster Family Boarding Homes.



April 4, 2019

Marjorie Landa  
Deputy Comptroller for Audit  
City of New York  
Office of the Comptroller  
1 Centre Street, Room 1100  
New York, New York 10007

**David A. Hansell**  
Commissioner  
150 William Street  
New York, NY 10038

Dear Ms. Landa,

**Eden Hauslaib**  
Chief Accountability Officer

Thank you for the opportunity to review and respond to the draft audit MG18-055A, *Audit Report on the Oversight of the Administration for Children's Services' Certification Process of Foster Parents*.

**Jennifer Fiellman**  
Assistant Commissioner

In short, as we will explain and illustrate below, we are concerned that this audit report has significant inaccuracies that fundamentally misunderstand and misrepresent the City's role in certifying foster homes and the multiple, strong mechanisms the City has in place to ensure that foster homes are safe and supportive. The reality is that the audit's primary focus are areas that are handled by the State, not by the City. As we have explained to the Comptroller's Office, ACS goes well above and beyond what the law requires, and we are already doing everything this report recommends and much more, to ensure that all children in foster care in New York City are safe and supported.

The Administration for Children's Services (ACS) provides services to ensure the safety and well-being of New York City's children and families. In situations in which children are not able to safely remain at home, the Family Court places children in foster care, with services supervised by ACS. The goal of foster care is to provide safety to children while addressing the family situation that necessitated the foster care placement, usually with the goal of safely reunifying children and families as quickly as possible. The Family Court provides judicial review for each child in foster care and each child is represented by an attorney.

ACS is aggressively implementing a Foster Care Strategic Blueprint to continuously improve outcomes for children and families in the foster care system. This work includes the implementation of evidence-based models to address trauma, mental health and other challenges faced by children and families; strategies to improve reunification, adoption and kinship guardianship outcomes; cutting-edge training and professional development for the child welfare workforce; and rigorous provider monitoring and continuous quality improvement systems. This work is yielding promising results including fewer children in foster care, down from more than 11,000 in Fiscal Year 2015 to 8,300 this year; a 35 percent reduction in the number of children in foster care for two or more years from Fiscal Year 2015 to this year; a higher proportion of children in kinship foster care, up from 31 percent of all children in foster care in Fiscal Year 2017 to 38 percent this year; increased foster home recruitment, up 32 percent from Fiscal Year 2017 to Fiscal Year 2018; and increased programming for children. The work on foster home recruitment, kinship placement, and more timely

permanency has been implemented by ACS in partnership with national experts Public Catalyst and Action Research and is based upon research and industry-wide best practices.

New York State Office of Children and Family Services (OCFS) regulates and supervises foster care in New York State, including the certification of foster parents and foster homes. These New York State regulations and guidance do not assign responsibility to the Local District of Social Services – which is ACS in New York City – related to foster home certification approval. This is also noted in Social Services Law § 374-b. Following the electronic submission of a certification request by an authorized agency, OCFS authorizes the foster care provider agency to certify the foster parent. Neither State regulations nor State guidance assign any responsibility for verification by the local social services district (in this case, ACS) of prerequisite documentation to be conducted prior to the placement of foster children into a foster home.

The certification of foster parents and foster homes in New York State is the responsibility of the authorized agency with oversight of the foster home – in New York City, our contracted foster care provider agencies – and OCFS, as outlined in section 443 of Title 18 of the New York Codes, Rules and Regulations (18 NYCRR 443).

In New York City, ACS administers foster care services through contracts with not-for-profit foster care provider agencies and has multiple oversight mechanisms - including our quality assurance, legal services, and child protective work to ensure the safety and well-being of New York City's children and families. ACS contracts with foster care provider agencies to operate foster care programs, including family foster care, therapeutic family foster care, and special medical foster care. Some provider agencies operate multiple foster care programs; each is monitored independently. Throughout this response, references to provider programs are references to the specific type of foster care (such as therapeutic family foster care); references to provider agencies are to the larger agencies with which ACS contracts to deliver foster care services.

ACS has a comprehensive provider accountability oversight and quality management assurance system that includes:

- ACS conducts monthly safety checks of each foster care provider agency's foster care program to ensure that every child and family is being visited and seen with the frequency required by the ACS Foster Care Quality Assurance Standards. When there are children or foster homes that have not been visited within the required timeframe, the foster care provider must submit an explanation for the lapse in visits and their plan to see the family as soon as possible.
- ACS generates monthly data reports reflecting each foster care provider agency and foster care program's performance indicators, as they relate to the goals outlined in the ACS Foster Care Strategic Blueprint.<sup>1</sup>
- Twice each year, ACS perform an audit of a statistically representative number of cases from each foster care provider agency program; which includes an assessment of the provider's performance on over 100 case practice elements.
- ACS also generates a quarterly report for each foster care provider agency program that provides an analysis of outcomes data, including data related to maltreatment in care and the timeliness of each foster care provider agency's response to corrective action plans issued by ACS. These data reports inform quarterly monitoring sessions, led by ACS, with each foster care provider agency.

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<sup>1</sup> Additional details about the Blueprint are available online via [this link](#).

- ACS generates an annual provider “Scorecard” which assesses each agency’s overall performance on key outcomes measures related to safety, permanency and well-being.
- ACS places agencies with persistent performance issues on Heightened Monitoring or Corrective Action Status. Such placement necessitates an improvement plan, which is strictly monitored on a monthly basis by ACS.

ACS’ Division of Family Court Legal Services is also involved in every case involving a child placed in foster care, and each child has Family Court permanency hearings on an established schedule, at which the ACS attorney, the child’s attorney and the parent’s attorney review the appropriateness of the child’s current placement, as well as the child’s service plan and needs and progress towards permanency before a judge or judicial referee. In addition to the monitoring and accountability mechanisms described above, ACS also supports the foster care providers through case consultation and a wide array of technical assistance programs. This includes assistance specific to supporting best practices in foster home recruitment and timely and complete certification, including via monthly meetings with provider agency homefinding staff and additional on-site technical assistance as part of the Home Away from Home initiative.

There are numerous additional ways that ACS and its provider agencies monitor the safety of children placed in foster care. This includes provider agency case planning staff conducting visits and meetings with foster children and their foster parents every month, at least two of which must be in the foster home every quarter. Because ACS understands that such ongoing, in-home assessment of each foster home is a critical safety measure, ACS conducts a monthly safety check of each provider agency’s casework contact performance.

In the first quarter of FY19, 1.5 percent of foster homes were the subject of a substantiated report of abuse or neglect, as determined by the investigating ACS Child Protection Specialist. These investigations are conducted by the Office of Special Investigations (OSI), an independent and specialized unit within the Division of Child Protection. If the investigation finds credible evidence that supports the allegations, OSI has the authority to direct the provider agency to close the foster home, remove children from the foster home and/or issue corrective action plans to the agencies. ACS closely monitors, for each agency and system-wide, provider agency responsiveness to this key metric of foster home safety and the degree to which each provider agency complies with OSI corrective action plans, as well as other key indicators of foster home safety.

## FINDINGS

The Comptroller’s report includes significant inaccuracies and misrepresentations. In several different ways, the report does not accurately reflect the requirements for certifying foster parents, particularly as they relate to requirements which differ for kinship foster parents, to whom different training requirements apply following the placement of children in the kinship home. Research indicates that foster children fare best when placed in kinship homes,<sup>2</sup> and ACS’ audit methodology reflects the flexibility permitted by the State that allows for such placements to be initiated and continued.

ACS continues to have concerns about the sample selected for the Comptroller’s audit, which is not representative of foster homes in New York City. While ACS contracts with 24 family foster care agencies, the Comptroller selected only three agencies as the focus of this audit. We are similarly unaware of the

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<sup>2</sup> See, for example, Epstein, [Kinship Care is Better for Children and Families](#), American Bar Association’s Child Law Practice Today Volume 36, July/August 2017, and Child Welfare Information Gateway’s [resource page](#) on the Impact of Kinship Care on Permanency Outcomes, which includes multiple citations.

methodology used by the Comptroller to determine the number of foster home files reviewed per provider agency, which varied from 26 files reviewed at one provider agency to nearly twice that, 51, at another provider agency. Even among the three provider agencies selected, the number of files reviewed does not reflect the size of each provider agency's family foster home programs. The provider agency for which the largest sample of foster home files was selected, Children's Village, is the smallest of the three provider agencies by a large margin.<sup>3</sup> In other words, there is no statistically valid basis for the report's findings and conclusions.

ACS also did not receive an explanation of how the Comptroller selected the foster home certification files which it reviewed. The Comptroller's sample appears to have had an overrepresentation of kinship foster homes and included many recertification files that concerned foster homes that had been certified and supervised for two years or more.

As was shared with the Comptroller in meetings throughout this audit review, ACS has multiple procedures in place to monitor provider compliance with requirements and to assess the ongoing safety of foster homes. It is important to note that the certification process is not the only mechanism in place to assess whether foster parents and foster homes are appropriate and safe settings for children in foster care. Foster care provider agency case planners are responsible for conducting at least one visit a month with each foster child, and two visits each quarter to each foster home in which a foster child is placed and are required to have face-to-face contact with each foster child and foster parent on a regular basis. Furthermore, a comprehensive service plan is developed every six months for each foster child, and each foster child's permanency plan and status is discussed at regular permanency hearings in Family Court.

The draft report includes three primary findings, which are discussed in turn below.

*Comptroller Finding 1: ACS Does Not Independently Verify Certification Files Prior to Placement*

The Comptroller's first finding is that ACS lacks a process to independently verify that contracted foster care providers have properly certified prospective foster care families in accordance with regulatory requirements. This is misleading, since certification and approval of foster parents and foster homes by ACS' contracted provider agencies is conducted between the foster care provider agency and the New York State Office of Children and Family Services as outlined in New York State regulations (18 NYCRR 433).

Furthermore, expedient placement of children into foster homes, particularly kinship foster homes, is critical to protecting the well-being of foster children. Adding an additional step which prolongs certification of new foster homes will lead to a higher census and longer stays in pre-placement facilities, including the Nicholas Scoppetta Children's Center, would subject foster children to additional moves, with demonstrable negative impacts on their well-being,<sup>4</sup> and exacerbate overcrowding in existing certified foster homes.

Though not required to conduct any review of foster home certification files by the State, ACS nonetheless conducts its own audit of a sample of initial certifications and first-time recertifications as one component of our monitoring of foster care provider agency practice and performance. More details regarding ACS' sample selection and audit process will be discussed below. ACS' certification audit findings are reviewed with each provider and are reflected in the provider agency's safety score in Scorecard. Scorecard is used by ACS to

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<sup>3</sup> As of our most recent foster care capacity/utilization report, Catholic Guardian currently has 560 foster children in its family foster care programs; Children's Village's family foster care programs currently house 249 children; and JCCA's family foster care programs currently house 446 children.

<sup>4</sup> See, for example, Rubin, et al., [\*The Impact of Placement Stability on Behavioral Well-being for Children in Foster Care\*](#), Pediatrics Volume 119, 2007.

develop and implement improvement plans that target identified areas of practice concerns with every provider agency, every year.

*Comptroller Finding 2: ACS' Audit Methodology is Inadequately Designed and Poorly Conducted*

The Comptroller's methodology was insufficient to reach its conclusion that ACS' audits are inadequately designed and poorly conducted, and the Comptroller neither shared nor requested additional information from ACS with which either ACS or the Comptroller's office could compare findings. Furthermore, while the Comptroller's report suggests that its office followed the same audit methodology as ACS, this is inaccurate. The Comptroller reports on finding missing prerequisites that are not part of ACS' audit and included a review of recertified homes which had been foster homes for years, and thus would not be subject to ACS' certification audit.

Following each ACS audit of foster home certification files, ACS issues its findings, which clearly identify which documents were missing and from which files, in a letter to the provider agency. The provider agency is given a deadline to respond with any documentation that confirms that the prerequisite was actually conducted during the required time frame, such as a training sign-in that demonstrates that a foster parent completed the required training hours in the certification review period, or dated documentation of a physical examination that demonstrates it was conducted in the required time period.

ACS targets its certification audit to newly certified parents and initial annual recertifications, prioritizing reviews of those who are less familiar to the provider agency and have less experience as foster parents. Foster parents who have been certified foster parents for two or more years are well known to their certifying foster care provider agency, because of regular contacts at trainings, in their foster homes, and elsewhere, and are thus not the focus of ACS' targeted audit. ACS also intentionally designs its sample to include a set ratio of kinship, non-kinship, and initial recertification reviews for each provider agency, so that provider agency performance can be more uniformly assessed. The Comptroller's audit did not replicate these ratios and included homes that would never be the subject of an ACS certification audit review, which means the Comptroller's assertion that ACS' audit methodology was followed cannot be accurate. Moreover, the Comptroller's audit included a review for certification prerequisites, such as reference letters, that the ACS audit explicitly does not include because they have limited bearing on child and foster home safety.

Furthermore, the Comptroller's audit findings do not distinguish between foster certification files concerning kinship foster parents and certifications for non-kinship foster parents, nor did the Comptroller provide details of the methodology with which it assessed kinship compliance with certification requirements. New York State regulations (18 NYCRR 433.7) allow for emergency certification of kinship homes, following a preliminary assessment of safety and suitability, prior to full certification. ACS does not know whether the timeframes the Comptroller used to assess foster home certification compliance reflected the allowances for such temporary emergency certifications, and thus cannot verify whether an ACS audit of the same files would reach the same conclusions.

Moreover, the provider agency, as the authorized agency by regulation, is afforded discretion under New York State regulation in making foster home licensure determinations when assessing how, or whether, the information obtained suggests a potential risk to the health, safety and well-being of a child if placed in the home (18 NYCRR 433). Such discretion is permitted by regulations for emergency foster family homes which state that "Exceptions ... may be proposed by the authorized agency as part of the foster boarding home approval process when the authorized agency determines that such exception is necessary to board a foster child; is in the best interests of the child to effect such boarding arrangement; and is consistent with the health,



safety, and welfare of the child...”<sup>5</sup> ACS’ audit reflects this exception allowance for kinship foster homes in its assessment of some prerequisite requirements, and offers partial credit in its review for some requirements. ACS never places a child in a foster home or emergency foster home placement without completing a safety assessment and home study, to confirm that the home is an appropriate and safe placement.

*Comptroller Finding 3: Files Were Missing Prerequisite Documentation*

While the Comptroller found that many “prerequisite” documents were missing, this is a misleading term for certification file reviews of active foster homes, in which foster children are currently placed. Absent a compelling concern for the safety of the foster child or safety concerns related to the foster parent or home itself, a foster child would not be removed or transferred from the foster home merely because of a missing recertification documentation in the foster parent’s file.

Similarly, for initial certifications of kinship foster homes, labeling required certification documentation as “prerequisites” is also misleading, particularly since in many cases a child is placed with a kinship resource on an emergency basis and upon a court order. While both ACS and the Comptroller’s audit review the certification files to verify whether the documentation required by the State is present, the absence of such documentation cannot be the sole reason to reject placement of a child or children into a home that a Family Court order mandated be opened as a kinship foster home.

As mentioned above, beyond certification file reviews, ACS-contracted foster care provider agency case planners visit each foster home on a regular basis and are responsible during each visit for assessing the safety and appropriateness of the home. Case planners must have contact with every foster child and foster parent monthly, and must visit each foster home at least twice in every three-month period. This ongoing, regular face-to-face and in-home contact allows case planners to regularly assess the safety of the foster child and foster home and verify the appropriateness of the foster home placement.

The report claims that 81 percent of the foster home files reviewed were missing one or more prerequisites. However, the Comptroller identifies some documentation that is not subject to ACS audit as prerequisites. Furthermore, the Comptroller’s office did not provide ACS with detailed information about whether prerequisite information listed as missing in Table II of their report was completely or only partially missing, nor does it identify whether the missing prerequisite information was for the foster parent applicant, with primary responsibility for the support and care of foster children placed in the home, or for another household member over the age of 18. For example, Table II lists 54 instances where training details were missing from foster home files. The report does not specify whether that finding was reached because no training documentation was found in those files or whether the documentation failed to demonstrate that the required number of hours of training had been obtained for the certification year. Thus, ACS is unable to discern whether, for example, documentation of 10 hours of training was in the file, but that documentation for 2 additional hours, or for a specific training, was missing.

This is likely the source of many of the discrepancies between the Comptroller’s audit findings and ACS’ audit findings, especially because the Comptroller audit included an unknown number of foster home recertifications and kinship foster homes, which are allowed more leeway in the timeliness of completion of certain training requirements than new foster homes. Moreover, as detailed above, ACS uses additional sources of information to determine the safety of our foster care provider agencies’ practice.

Table II also lists the number of files for which medical documentation, including evidence of a tuberculosis test, was incomplete, and suggests that any file missing proof of a tuberculosis screen is out of compliance with

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<sup>5</sup> See 18 NYCRR 443.3(b)(16).

certification requirements. In fact, State regulations require that a tuberculosis screen, or other additional related tests, be conducted only if a medical professional, upon conducting a review of the foster family's general health for indications of illness or other physical conditions which might affect the proper care of a foster child, determines that such a screening is deemed necessary.<sup>6</sup> The comptroller's audit concluded that any file missing tuberculosis screening information failed to meet the medical documentation requirements for certification, which is misleading.

ACS does not track provider agency compliance with certification requirements in the same way as the Comptroller's audit. ACS tracks the number and percentage of foster homes in compliance with certification requirements for each type of foster care program, by agency, and for each audit category. The Comptroller's audit makes no such distinctions. For example, ACS' audit of new home certification files for Fiscal Year 2018 of all family foster care agencies and programs, found that 93 percent of new foster parent certification files demonstrated that the foster parent applicant received all required training. As noted above, in some instances a kinship home is opened due to a court order. In such cases, the kinship foster parent may not have fully complied with the training requirements, but both Family Court and the foster care provider agency believe that the child's continued placement with the caregiver is both safe and in the child's best interest.

### **COMPTROLLER'S RECOMMENDATIONS**

The Administration for Children's Services has carefully reviewed and taken into consideration the recommendations issued on March 21, 2019 by the City of New York Office of the Comptroller in its draft audit report. The draft report provides four recommendations, for which we have provided responses below.

- 1. ACS should develop a review process that ensures that foster care providers do not certify prospective foster care families until the providers have collected the required evidence to demonstrate that the families have met the City's and State's requirements.**

ACS disagrees with this recommendation, since certification of foster parents is the purview of the State, in that the State has empowered authorized agencies to conduct such certification. As noted above, these authorized agencies are our contracted foster care provider agencies. ACS does not conduct a review prior to certification to verify that provider agencies have collected the required documentation, and to do so would interfere with the State's certification process as outlined in 18 NYCRR 433.

ACS' current review process of certification and approval files and documentation is more comprehensive than that which is required by the State and is only one component of ACS' broader monitoring of agency practice and performance.

- 2. ACS should set deadlines for providers to correct all deficiencies identified in the annual audits.**

ACS agrees, in that this is already ACS practice, which is reflected in ACS' audit reports issued to each provider agency. The ACS Agency Program Assistance office holds the responsibility for follow up with the provider agencies on deficient items identified during the certification review process. ACS issues a formal audit summary to each provider agency, which outlines the steps the agency must take in response and designates deadlines by which the agency must respond. Once the audit results are shared with the provider agency, the assigned ACS monitor for each provider agency follows up to obtain resolution within a designated timeframe that appropriately reflects the nature of the missing documentation. (For example, if the foster parent did not attend a specific training, which is held only once every six months, the foster parent will be expected to attend that training the next time it is held.) The provider agency must either produce the missing item or submit a plan,

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<sup>6</sup> 18 NYCRR 443.2(b)(16)(ii)

with a due date specified, for how and when each deficiency will be addressed, which ACS then monitors until it is completed.

- 3. ACS should implement procedures that require staff to follow-up on the annual audits to ensure that providers correct all deficiencies identified in those audits or work with ACS to develop a plan to address them.**

ACS agrees, in that this is a current ACS practice. As detailed above, ACS has a rigorous performance monitoring process for all providers and programs which includes the review of individual cases, the implementation of improvement plans for every provider program, and the issuance of a public scorecard which notes a provider's overall performance for the fiscal year. ACS' performance monitoring includes a review of additional safety indicators. ACS' annual certification audit reviews far more files, with a sample representative of the distribution of foster homes at each agency, and reviews the files from each of our 24 provider agencies each year, providing a more accurate picture of overall system performance, as well as the comparative performance of each of foster care provider agency and program. Timeliness of certification is included in this annual review and is included in the overall safety practice index of the annual scorecard. The annual scorecard practice index includes an evaluation of performance in foster parent training and certification as well as the timeliness of foster parent certification. This annual score comprises 25 percent of the safety index score for any program, which is a significant weight.

Programs which have low safety scores go through a Mandated Safety Assessment which can lead to placement on corrective action, the issuance of a mandated safety plan or the creation of a larger agency plan through their annual improvement planning. In real time, items that agencies have not completed that are identified during a foster care certification audit are followed up by the monitoring team. The provider agency must produce the missing item or submit a plan to addressing missing items following the certification review. These plans are followed up by ACS monitors until they are completed.

It is important to reemphasize that the certification process is far from the only mechanism in place to assess whether foster parents and foster homes are appropriate and safe settings for children in foster care. As mentioned above, foster care agency case planners are responsible for conducting at least one visit a month with each foster child, and two visits each quarter to each foster home in which a foster child is placed and are required to have face-to-face contact with each foster child and foster parent on a regular basis. Foster care agency case planners are mandated reporters and must report any suspicions of abuse or maltreatment to the Statewide Central Register, who then assigns the report to the local department of social services, where a Child Protective Specialist initiates an investigation of the child's safety within 24 hours.

- 4. ACS should update and adhere to its audit methodology so that its audit staff checks for all documents required for foster parents certification, includes all foster homes as part of the potential audit scope, limits the advance notice that ACS provides to its contracted foster care agencies regarding the audits, independently confirms information its contracted foster care agencies provider about the status of the foster families whose files are selected for audit, and ensures that it selects no fewer than the required number of foster families files for each audit.**

ACS adheres to the audit methodology it developed as one component of its oversight of agency practice and performance, and which establishes a higher standard than that mandated as a Local District of Social Services with oversight of foster care provider agency practice. ACS focuses its resources on the certification documents most directly related to foster home safety and suitability, including foster parent training, medical clearances, criminal background clearances, and the clearance for abuse or neglect history by the Statewide Central

Register, and confirms that a home study has verified that the home is fully prepared and appropriate for a foster child's placement.

The current sample is representative of the number of newly certified homes of each provider program. Thus, for larger foster care agencies, ACS' audit reviews certification and initial recertification files for as many as 70 foster homes, and for many smaller agencies, ACS' audit reviews all newly certified and initially recertified homes.

Notification to the providers in advance of an audit serves more than one purpose. Notice is given to ensure that the records needed are on site when the reviewers arrive – as many of ACS' contracted agencies have multiple sites; such coordination is necessary to make sure that files are available for an in-person review when the reviewer arrives. On-site visits must be planned to ensure that each reviewer's time is maximized and spent reviewing files and other documentation, rather than awaiting the arrival of files.

Thank you for your consideration and for your work in support of New York City's children and families.

Sincerely yours.

A handwritten signature in blue ink, appearing to read "Jennifer Fiellman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jennifer Fiellman, Esq.