Administrative Directive Memorandum

Section 1

Transmittal: 19-ADM-05; 19-OCFS-ADM-03

To: Social Services District Commissioners
Executive Directors of Residential Programs for Victims of Domestic Violence

Issuing Division/Office: Office of Temporary and Disability Assistance/Employment and Income Support Programs
Office of Children and Family Services/Division of Child Welfare and Community Services

Date: June 14, 2019

Subject: Payment of Residential Services for Victims of Domestic Violence

Suggested Distribution: Temporary Assistance Directors, OCFS Regional Office Directors, Directors of Social Services, Service Directors, Program Directors of Residential Domestic Violence Programs, Domestic Violence Advocates, Domestic Violence Liaisons, COC Coordinators

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Temporary Assistance Bureau: (518) 474-9344;
otda.sm.cees.tabureau@otda.ny.gov

Attachments: Attachment 1: Temporary Assistance Budgeting Examples and Payment Examples
Attachment 2: Domestic Violence Release of Information Form
Attachment 3: OCFS District of Fiscal Responsibility (DFR) Determination Worksheet for Non-TA Cases

Attachment Available Online:

Filing References

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OTDA ADM-__ (Rev. __/201__)
Section 2

I. Purpose

The New York State Office of Children and Family Services (OCFS) and the New York State Office of Temporary and Disability Assistance (OTDA) are issuing this directive to advise social services districts (districts) and residential programs for victims of domestic violence (DV) of amendments made to Sections §§ 131-u and 459-f of Social Services Law (SSL) in accordance with Part J of Chapter 56 of the Laws of 2019, and to clarify the funding sources available for paying for residential programs for services rendered to victims of DV. This release also advises districts that applicants or recipients of public assistance, commonly referred to as temporary assistance (TA), receiving DV residential shelter services, are no longer required to contribute towards the cost of their stay in the DV shelter. Finally, this release advises districts and DV shelter providers about the strengthening of protections of personally identifying information of victims of DV by requiring the victim and head of household’s consent prior to sharing personally identifying information.

II. Background

Districts are required to offer and provide emergency shelter and services at a licensed residential program for victims of DV when such residential program is necessary and available to victims of domestic DV.

The federal Family Violence Prevention Services Act (FVPSA) (42 USC 10408) requires that states provide DV services and residential shelter to victims in need regardless of the victim’s ability to pay for such shelter or services and institute procedures to protect the confidentiality of victims. The U.S. Department of Health and Human Services recently determined that certain provisions of New York State’s laws are inconsistent with FVPSA on the basis of privacy concerns and that requiring some victims to pay a portion of their shelter costs is prohibited. OCFS and other state agencies presently use federal grant funds from FVPSA to support a multitude of services for victims of DV.

Consistent with Federal regulations prohibiting placing any conditions on the receipt of residential services for victims of DV, amendments were made to Sections 131-u and 459-f of the SSL in Part J of Chapter 56 of the Laws of 2019 to eliminate the requirement that victims of DV apply for TA to pay for the costs of emergency shelter and services at a residential program for victims of DV, and to repeal requirements that providers charge certain victims a share of the costs for services. These changes will allow New York State to continue to receive funding from FVPSA.

In addition, the amendments articulate that a district fiscally responsible for a victim of DV must reimburse a DV residential program at the per diem rate established by OCFS reduced by any other reimbursement available for such costs. Federal statutory requirements indicate that fees cannot be levied against a victim of DV for receipt of services.

The changes in legislation were also necessary to comply with federal statutory and regulatory requirements which prohibit placing any condition upon the receipt of services for victims of DV.

This guidance supersedes any prior guidance.
III. Program Implications

As a result of the changes in the SSL, emergency regulations amending 18 NYCRR Parts 408 and 452 have been filed. These changes eliminate the requirement that a DV victim must apply for TA and prohibit the levying of fees against a victim of DV. There is no change to the policy that requires districts to offer and provide emergency shelter and services at a DV residential program to DV victims regardless of whether a person is eligible for TA. Applying for TA remains voluntary and confidential. These changes apply to victims of DV who receive residential services as of the effective date of this release.

A. Informing DV Victims about the right to apply for TA upon entry into a Residential Program for victims of DV

Regulations now require that within the first business day of entry into the residential program, a residential program must provide victims of DV with information explaining their right to apply for TA and relevant information to make an informed decision whether to apply for such assistance. This information must include, but is not limited to, understanding what personally identifying information is required, how that information will be used, what benefits and services are available through TA, and the personal privacy requirements and program waivers required under TA.

B. The protection of personally identifying information of victims of DV

The regulations strengthen the protection of personally identifying information of victims of DV by requiring the victim and head of household’s consent prior to sharing personally identifying information with a district for purposes of either applying for TA or providing payment to a residential program for victims of DV.

The increase in protection of personally identifying information does not affect a program’s requirements under SSL § 413 and related regulations at 18 NYCRR Part 452.9(d) and 18 NYCRR 452.10(a)(4)(ii)(a) to comply with mandatory reporting of suspected child abuse or maltreatment.

C. DV Victims cannot be required to apply for TA

Statutory amendments eliminate any requirement that victims of DV apply for TA to pay for the costs of emergency shelter and services at a residential program for victims of DV as a condition of shelter. Districts and DV providers may not require that a victim of DV apply for TA in order to receive residential DV services.

D. DV Victims who choose to apply for TA, or who are already receiving TA

If an individual in need of DV residential services chooses to apply for, or to continue receiving TA, they must sign the “Domestic Violence Release of Information” form (attachment 2) commonly referred to in this document as the “consent form.” Completing the consent form is required for all TA applicants and recipients, and can be done either at the DV shelter or at the district office.

Districts should continue to provide TA application forms and client information booklets to the residential programs in their districts to facilitate the application process should anyone wish to apply for TA, or any of the other benefit programs that are available to them through the use of such forms.
E. Forms

Districts are prohibited from disclosing personally identifying information to DV providers without a signed consent form. Likewise, DV providers are prohibited from disclosing personally identifying information to districts without a signed consent form.

The consent form can be found as Attachment 2. This form is also available for download on LDSS E-Forms.

For those DV victims who choose not to apply for TA, and for whom no personally identifiable information is provided to the district, the District of Fiscal Responsibility (DFR) will be determined by the residential program using the OCFS District of Fiscal Responsibility (DFR) Determination Worksheet for Non-TA Cases (attachment 3).

How to obtain forms:

1. These forms are available on the OCFS Intranet website at: [http://ocfs.state.nyenet/](http://ocfs.state.nyenet/) in English. OCFS is in the process of translating these forms into the following languages: Arabic, Chinese, Haitian-Creole, Bengali, Korean, Russian and Spanish. Once they are completed, they will be posted on the OCFS Intranet website.

2. This form may be available for downloading by districts for reproduction locally, depending on print specifications.

How to Request Approval for a Local Equivalent Form:

1. Local equivalent forms are forms developed by districts which are designed to be used in place of state-mandated forms. Local equivalent forms must contain all the information required on the state-mandated forms, but may also contain additional information required for the district’s own purposes. Local equivalents may differ in format as well as media from the mandated forms. Districts develop local equivalent forms for many reasons, including producing forms to accommodate sight-impaired workers; producing different sized forms which better fit in district case folders; producing forms which have the district address preprinted; and producing electronic forms to be used in place of hard copy forms. The goal of the local equivalent form approval process is to guarantee that districts are using forms which are legally, programmatically and systematically accurate and up-to-date.

2. The district must receive written approval from the OCFS prior to using the local equivalent form. To make changes to a mandated LDSS form, districts **MUST** submit a request on county letterhead with a modified version of the form attached, prior to implementing use of the form. The request must include the reason for the change and a contact person.

Please submit your request either electronically or by hard copy to:

Pamela Jobin
Director, Bureau of Domestic Violence Prevention and Victim Support
Office of Children and Family Services
52 Washington Street
North Building, Room 334
Rensselaer, New York 12144
or
IV. Required Action

A. Districts:

Districts may no longer require a victim of DV to apply for TA as a condition for receiving residential DV services. Additionally, victims cannot be required to provide personally identifying information to the district for any purpose including payment of the cost for the shelter stay. A victim may choose to apply for TA, in which case their TA benefit will be applied to the cost of the DV residential program. The victim must be provided with information to assist them to make an informed decision whether to apply for TA. This information includes and is not limited to: what benefits and services are available, what personally identifying information is required for the application, and how such information will be used.

All applicants and recipients of TA receiving DV residential services must sign the “Domestic Violence Release of Information” form (attachment 2) as a condition of TA eligibility. If a DV victim seeking DV residential services goes directly to the district, the victim must be referred to the district’s domestic violence liaison (DVL), and the DVL must offer the consent form to the victim. If the victim agrees to share their information with the DV residential program, the DVL must send a copy of the completed and signed consent form to the authorized DV shelter provider. The DVL must keep a copy of the consent form in their confidential case files.

Districts are reminded that no information indicating the presence of DV, including the consent form, must ever be imaged into the district’s document repository, or otherwise entered into the individual’s TA case record.

In addition, if a victim chooses to apply for TA they must submit a completed and signed LDSS-2921 “Application for Certain Benefits and Services.” They must complete an eligibility interview and comply with all TA eligibility requirements, unless they have received a DV waiver for an eligibility requirement or have good cause for not complying. If they are found eligible for TA, then their TA benefit may be applied toward the costs of their stay at a residential program for victims of DV.

If the victim does not wish to apply for, continue to receive, or is ineligible for TA, the district will reimburse the costs of the victim’s stay in the domestic violence shelter through Title XX of the federal Social Security Act, or other funding sources administered under the direction of OCFS.

District of Fiscal Responsibility:

The DFR must pay the established per diem rate to the applicable residential program for victims of DV through either TA, non-TA or a combination of both funding sources, for the costs of temporary shelter and emergency services provided to victims of DV and any minor children of such victim. The DFR is the district in which the victim was a resident at the time of the DV incident that prompted entry into the DV residential shelter.

For example, if a person is a resident of district A, and while this person is staying with friends outside of their home district, a DV incident occurs that prompts their entry into a DV residential shelter, district A would be the DFR.
For those DV victims who chose to apply for TA, there is no change to DFR procedures as described in 00 INF-19. In addition, if districts have any questions regarding DFR determinations for a TA applicant or recipient they may continue to contact the OTDA TA Bureau for assistance.

For those DV victims who choose not to apply for TA, and for whom no personally identifiable information is provided to the district, the DFR will be determined by the residential program using the OCFS District of Fiscal Responsibility (DFR) Determination Worksheet for Non-TA Cases (attachment 3). If districts have any questions regarding DFR determinations for non-TA cases they may contact Pam Jobin at Pamela.Jobin@ocfs.ny.gov or by phone at 518-474-4787.

Districts are reminded that existing policy delineated in 93-ADM-24 requires districts to pay residential programs for victims of DV within sixty days of receipt of billing. OCFS will provide oversight in coordination with OTDA. DV providers with concerns about delays in payment should immediately call Pam Jobin.

Districts should be actively monitoring all DV shelter non-TA payments that are made. If a district observes a substantial increase in non-TA DV shelter costs as compared to prior years, that district should notify the OCFS Bureau of Budget Management. If a further review of claims determines that the changes set forth in this policy have placed a significant burden upon a district’s availability of funding, consideration may be given to provide that district with an advance of open-ended adult protective/domestic violence funding.

Calculating the TA Benefit for DV victims receiving DV Shelter:

Previously, districts calculated the TA benefit in accordance with TA budgeting rules. If the TA applicant/recipient’s TA benefit was equal to or greater than the cost of the residential provider, then the provider was paid in full and any remaining TA benefit was given to the applicant/recipient. If the applicant/recipient’s TA benefit was less than the cost of the residential program, then the entire TA benefit was paid directly to the provider and the applicant/recipient was responsible for paying the difference out of their monthly income.

When a victim has applied for, or is in receipt of TA, districts must continue to calculate such TA benefits in accordance with the TA budgeting rules in 18 NYCRR 352. When the TA benefit is less than the actual cost of the DV shelter, the provider is no longer allowed to bill the victim for any portion of their stay in the DV shelter. Instead, districts will reimburse shelters for this shortfall and claim these costs from either the district’s allocation under Title XX of the federal Social Security Act that is required to be spent on adult protective or DV services, or services expenditures made by a district which will be subject to the applicable percent state reimbursement.

For further information on budgeting examples for both TA and non-TA payment of DV shelter costs please see the “Temporary Assistance Budgeting Examples and Payment Examples,” attachment 1.

TA Sanctions and Non-Cooperation with TA Requirements:

If a TA applicant/recipient is currently residing in a DV residential program and requests that TA pay for the cost of the DV shelter, and the individual is within the durational sanction period, the cost of the individual’s stay in the DV shelter is not eligible for reimbursement using TA funds. The application to pay for the cost of the individual’s stay in the DV shelter must be forwarded to the district’s Services bureau for a determination of eligibility for Title XX, or other funding sources administered under the direction of OCFS. If there are other family members on the application, they may be eligible for TA for their share of the needs.
If a TA applicant/recipient refuses to cooperate with TA requirements without good cause and without a DV waiver, and as a result their TA is denied, sanctioned or closed, the DV shelter costs of that individual would only be eligible for reimbursement through TA up to the point of such non-compliance. After that time, the shelter would be ineligible for payment for that individual through TA, and the application must then be forwarded to the district’s Services bureau for a determination of eligibility for Title XX, or other funding sources administered under the direction of OCFS. If there are other family members on the application, who are otherwise eligible, TA payments may continue to be made for their share of the needs.

A TA applicant/recipient currently residing in a DV residential program who was previously sanctioned but who is not in a durational sanction period is eligible for a shelter payment through TA if the individual cooperates to the extent possible while in the DV residential program, and TA is able to make a determination of TA eligibility.

For example: An individual’s TA case was closed because of failure to cooperate with employment requirements in a ROS district. As an adult without children, the first instance of employment non-cooperation resulted in a sanction of 90 days and until compliance. The individual is two months past the end of the 90-day durational sanction period at the time of entry into the DV program and application for TA. The district conducted an initial eligibility interview and had all necessary documentation to determine TA eligibility. However, it cannot schedule the applicant for an interview with the employment unit for nine days. Two days before the employment interview, the individual leaves the shelter and moves out of state.

Since the applicant cooperated to the extent possible while in the DV shelter, and the district can determine the individual is eligible for TA, TA must pay for the cost of the DV stay.

In the event that an individual submits a TA application but leaves the DV shelter prior to the initial eligibility interview, the application for TA would be denied, no payment could be made using TA funds, and the application would be referred to the district’s Services bureau for determination of eligibility and for payment under Title XX or other funding sources administered under the direction of OCFS.

**Making DV Shelter Payments Without a TA Application:**

Title XX funding may be utilized to reimburse the costs associated with residential DV services without the victim applying for TA, having an income eligibility determination made, or sharing their personally identifying information. Specifically, Title XX claims that are not designated as Title XX under 200% as a result of a transfer of Temporary Assistance for Needy Families funding to Title XX do not require income or personally identifying information regarding a victim of DV to be provided to the district in order for the residential DV services to be reimbursable. In these instances, a district only needs verification of the provision of eligible residential DV services; no eligibility checklist is required. A victim may choose to apply for TA and have their TA benefit applied to the cost of the domestic violence residential program. The victim must be provided with information to assist them to make an informed decision whether to apply. This information includes and is not limited to: what benefits and services are available, what personally identifying information is required for the application, and how such information will be used.

A district can seek reimbursement of expenditures through Title XX of the federal Social Security Act and through other funding sources administered under the direction of OCFS, so long as the district abides by the rules of the applicable funding source. Providers are responsible for submitting accurate service bills to the district that is reflective of services that have actually been provided. The district is required to pay the provider for such services, as
billed by the provider. Upon provider review, reconciliation or audit, a provider may amend a district bill for services and the district will pay or credit the provider as appropriate to reflect the revised provider billing.

Districts may utilize Title XX Below 200% funds to pay a DV per diem only when the family has applied for TA and completes a consent form. Eligibility of the family will be determined by the district through the TA application process. Please refer to chapter three, Title XX Below 200% Eligibility, in the NYS OCFS Eligibility Manual for Child Welfare Programs available at:


Since Welfare Management System (WMS) requires the entry of an individual’s name and date of birth, if the individual does not consent to the release of personal identifying information to the LDSS, payments to DV residential program must be made outside of WMS and BICS. See Section VI System Implications for more information.

B. Residential Programs for Victims of Domestic Violence:

At intake, DV programs must inform victims of DV that they have a right to apply for TA. In addition to TA, the DV program must provide information to the victim related to: all other potential benefits and services including, Daycare subsidies, Supplemental Nutrition Assistance Program (SNAP) benefits, Special Supplemental Nutrition Program for Women, Infants and Children (WIC) benefits, what personally identifying information is required, and how the personally identifying information will be used, so that the victim can make an informed decision whether to apply for such programs. If the DV victim chooses not to apply for TA, this decision shall be documented by the residential program.

When a victim of DV, who is not already in receipt of TA goes directly to a DV residential program, the residential program must provide the DV victim with the consent form and allow the client to decide whether to complete the form prior to submitting their application for TA. If the victim agrees to continue with the TA application process and share their information with the district, then the DV shelter must send a copy of the completed and signed consent form to the authorized district(s) and retain the original.

In all instances, when a residential program determines that a person is eligible for admission and admits such person into the program, it must provide notice of such admission to the district where the person was a resident at the time of the domestic violence incident. Such notice must be given on or before the first working day following admission. If the victim does not sign the consent form, the DV residential program must provide the following non-personally identifying statistical information on or before the first working day:

- The OCFS District of Fiscal Responsibility (DFR) Determination Worksheet for Non-TA Cases, (attachment 3). The worksheet will contain the unique case ID for each DV victim as entered into the OCFS Domestic Violence Information System (DVIS) and explain the program’s determination of DFR.
- The date of admission for the victim and any minor children to the residential program

To be eligible for reimbursement by the district, the DV shelter must also maintain accurate records and submit accurate service bills to the district. In addition to the information noted above, these records and bills must include the following:
The unique case ID for each DV victim as entered into the OCFS DVIS
• The number of nights each individual stayed overnight in the residential program
• The date the victim and any minor children depart the residential program

V. OCFS Monitoring and Oversight

OCFS, in conjunction with OTDA, will examine compliance across the state with the recent statutory and regulatory changes and policy directives to determine if there are potential procedural and/or claiming issues. OCFS will perform desk reviews to assess changes in length of stay, number of clients seeking payment of DV shelter through TA, and payments to programs for victims who decline to share their personally identifying information. The findings will be shared with the districts as appropriate. Additionally, during case record reviews conducted at the DV program, OCFS staff will examine program practices regarding informing victims of their right to apply for TA and check files for the presence of completed DFR and consent forms.

VI. Systems Implications

WMS Rest of State (ROS):

ROS Districts must use shelter type 22 Residential Program for Victims of Domestic Violence (3 Meals/Day) (u) or shelter type 37 Residential Program for Victims of Domestic Violence (Less Than 3 Meals/Day) (u) when calculating budgets for TA applicants or recipients residing in residential DV shelters.

ROS districts cannot use Client Notification System (CNS) to produce notices for cases with shelter type 22 or 37. Districts must send manual notices for cases budgeted with these shelter types. ROS districts must not use CNS code R70 for shelter types 22 and 37 as there will not be a clients’ share for these shelter types.

In order to accommodate this change in policy, a new variant of the CNS notice R15 restricted shelter payment code will be created for shelter types 22 and 37 that will remove language indicating any responsibility on the part of the client to pay excess shelter costs. Districts will be notified when this new CNS code is available for use. In the interim, districts must create a manual notice.

WMS Downstate:

NYC must use shelter type 13 - Residential Programs for Victims Of Domestic Violence (Less than 3 Meals Per Day) or shelter type 14 - Residential Programs For Victims Of Domestic Violence (3 Meals Per Day) when processing budgets for household residing in residential DV shelters. Workers will need to issue a manual notice to households while the language in the current CNS is being revised. Workers should suppress notice using an M3E indicator of A.

WMS Services System Instructions:

For those individuals who have submitted a completed and signed LDSS-2921 “Application for Certain Benefits and Services” and a signed consent form, the district is to open a WMS Services case (CT 40) in the usual manner. If all or a portion of the DV shelter per diem is claimed from either the district’s allocation under Title XX or applicable state reimbursement, Services 23G (Title XX) or 23C (Title XX Below 200%) is to be authorized for residential DV services in both the direct service (DIR) and purchase of services (POS) fields. Residential DV services paid on behalf of a non-qualified or undocumented alien are authorized with service type 23Y in DIR and POS fields.
**BICS:**

Service type 23 does not appear on system generated rosters but will appear on BICS Services Lists requested through BICS Production Request 23-Request for Services List. From the Services Lists generated, and a review of the DSS-2970 authorizing the service type 23, accounting staff can prepare manual vouchers for processing. Please see the BICS Services Payment Processing manual, Chapter 4 for additional information regarding Services Lists and manual voucher processing.


Payments for service Type 23C made through BICS appear on the BICS composite Schedule G, Line 22, Column 13 as “DOM-VIOLENCE-A-SERV/DV-BELOW-200%”.

Payments for service type 23Y made through BICS appear on the BICS composite Schedule H, Line 7, Column 17 as “DOMESTIC-VIOLENCE-UNDALIEN-FNP”.

*Making Payments Outside of WMS and BICS:*

When it is not possible to authorize and pay for DV services through WMS and BICS, the local district should develop and/or follow existing local processes and procedures for off-line payments. As noted previously, these cannot include personally identifying information for victims who have not signed a consent form.

Payments made off-line must be added to the Automated Claiming System (ACS) manually for reimbursement purposes. DV claims would be included on Schedule G in Column 12 (Title XX) or Column 13 (Title XX under 200%), as applicable, on line 22 (DV) or Schedule H in Column 17, on line 7 (DV Undocumented Alien FNP).

**VII. Effective Date**

Immediately

/S/ Jeffrey Gaskell

______________________________

**Issued By**

Name: Jeffrey Gaskell
Title: Deputy Commissioner
Division/Office: Employment and Income Support Programs, NYS OTDA

/S/ Derek J. Holtzclaw

______________________________

Name: Derek J. Holtzclaw
Title: Deputy Commissioner
Division: Administration and Financial Management, NYS OCFS
Residential Domestic Violence Shelter Budgeting and Payment Examples

Below are budgeting and payment examples to help social services districts determine the amount they will pay domestic violence residential programs using temporary assistance (TA), and non-TA funding sources.

The following terms are used in these examples:

**Per Diem Rate:** This is the daily per person rate established by the Office of Children and Family Services (OCFS) for a domestic violence residential program.

**Bed-nights:** Per diem reimbursement is based upon the concept of a bed-night. Residential programs are reimbursed for the day of arrival, but not for the day of departure. The district is only able to pay for the bed-nights the person actually stays overnight in the residential program. If a person arrives at a residential program, but leaves the same day and does not stay overnight, the program is not eligible for a per diem reimbursement. The district is also unable to pay for a shelter to “hold a bed” for a person that is absent from the shelter for any reason, including for example, court ordered visitation or medical stays.

**Personal Needs Allowance:** This is the per person TA allowance for persons in domestic violence residential programs where three meals a day are provided. The personal needs allowance is for personal needs items not covered in the per diem rate.

**Monthly Standard of Need:** This is the total TA need for an individual or family for the month. For individuals and families without income, this is equal to the amount of the TA grant. For individuals and families with income, this is the standard from which the available countable income is subtracted. Available countable income plus the TA grant will equal the standard of need.

**Work Disregard**
The $90 work disregard is applied to all households, for each individual with earned income.

**Earned Income Disregards (EID) -** Earned income disregards are the allowable deductions and exclusions subtracted from the gross earnings. The resulting amount, or net income, is applied against the household's need. The EID is updated every year on June 1st. The percentage used in the budgeting examples below is 53%, effective as of June 1, 2019.

**Monthly Countable Income:** This is the amount of the individual’s or family’s monthly income that is used to offset the standard of need. The difference between the monthly standard of need and the monthly countable income is the amount of the TA grant. This is also known as the **TA deficit**.

**Daily TA Deficit:** This is the monthly TA deficit divided by the actual number of days in the month.
District TA Payment to Residential Program: This is the share of the payment the residential program will receive from the social services district for the victim/family from TA funding

District Non-TA Payment to Residential Program: This is the share of the payment the residential program will receive from the social services district for the victim/family from non-TA funding, which could consist of APS/DV, Title XX or other funding sources administered under the direction of OCFS.

BUDGETING and PAYMENT EXAMPLES

EXAMPLE 1
(Family Applies for TA and has Earned Income)

Family of 3, mother and two children. The mother and two children enter a domestic violence residential program with a nightly per diem rate per person of $100 on June 1 and remain there until the morning of June 21 (20 bed-nights). The mother has gross earned income of $1,300 per month. 3 meals per day are provided by the residential program.

1. TA Monthly Standard of Need in Residential Program
   Per diem rate $100 per person
   Number of persons x 3 persons
   Family per diem $300 per bed-night
   Actual number of days in the month of June x 30 days
   $9,000
   Personal Needs Allowance + $135 ($45 x 3 persons)
   Monthly Standard of Need $9,135

2. Monthly Countable Income
   Monthly Gross Earned Income $1300.00
   Work disregard - $90.00
   $1,210.00
   Earned Income Disregard (53%) - $641.30
   Monthly Countable Income $568.70

3. Daily TA Deficit in Residential Program
   Monthly TA Standard of Need (from 1 above) $9,135.00
   Monthly Countable Income (from 2 above) - $568.70
Monthly TA Deficit $8,566 (rounded down)
Divide by Number of Days in the Month of June $285.53

Daily TA Deficit $285.53

4. District TA Payment to Residential Program
Daily TA Deficit $285.53
Number of days Family in Shelter x 20 bed-nights

District TA payment due to residential program $5,710 (rounded down)

5. District Non-TA Payment to Residential Program
Residential Program Bill ($300 x 20 days) $6,000
Minus TA Payment (from 4 above) - $5,710

District non-TA payment due to residential program $290

Total District Payments to Residential Program
Residential program received: $300 (per diem for 3 people) x 20 (bed-nights) = $6,000.
- $5,710 from TA
- $290 from Non-TA

EXAMPLE 2
(Family Applies for TA and has Unearned Income)

Family of 3, mother and two children. The mother and two children enter a domestic violence residential program with a nightly per diem rate per person of $100 on June 1 and remain there until the morning of June 21 (20 bed-nights). The mother has gross unearned income of $800 per month. 3 meals per day are provided by the residential program.

1. TA Monthly Standard of Need in Residential Program
Per diem rate $100 per person
Number of persons x 3 persons

Family per diem $300 per bed-night
Actual number of days in the month of June x 30 days

$9,000

Personal Needs Allowance + $135 ($45 x 3 persons)

Monthly Standard of Need $9,135

2. Monthly Countable Income
Monthly Unearned Income (no deductions) $800

3. Daily TA Deficit in Residential Program
   Monthly TA Standard of Need (from 1 above) $9,135
   Monthly Countable Income (from 2 above) - $800
   Monthly TA Deficit $8335
   Divide by number of days in the month ÷ 30 days
   Daily TA Deficit $277.83

4. District TA Payment to Residential Program
   Daily TA Deficit $277.83
   Number of days Family in program x 20 bed-nights
   District TA payment due to residential program $5,556 (rounded down)

5. District Non-TA Payment to Residential Program
   Residential Program Bill ($300 x 20 days) $6,000
   Minus TA Payment (from 4 above) - $5,556
   District non-TA payment due to residential program $444

Total District Payments to Residential Program
Residential program received: $300 (per diem for 3 people) x 20 (bed-nights) = $6,000.
   • $5,556 from TA
   • $444 from Non-TA

EXAMPLE 3
(Ineligible for TA)

Family of 3, mother and two children. The mother and two children enter a domestic violence residential program with a nightly per diem rate per person of $100 on June 1 and remain there until the morning of June 21 (20 bed-nights). The family applies, but is determined to be ineligible for TA benefits.

Example 3: Total District Payments to Residential Program
Residential program received: $300 (per diem for 3 people) x 20 (bed-nights) = $6,000.
   • $0 from TA
   • $6,000 from Non-TA

Please note:
Districts may utilize Title XX Below 200% funds to pay a DV per diem only when the family has applied for TA and completes a consent form. Please refer to chapter three, Title XX Below 200% Eligibility, in the NYS OCFS Eligibility Manual for Child Welfare Programs available at
https://ocfs.ny.gov/main/publications/eligibility/07%20Chapter%203%20Title%20XX%20Below%20200%20of%20Poverty.pdf for the eligibility determination process. Further guidance will be available in the questions and answers to follow this ADM.

EXAMPLE 4
(Does Not Apply for TA)

Family of 3, mother and two children. The mother and two children enter a domestic violence residential program with a nightly per diem rate per person of $100 on June 1 and remain there until the morning of June 21 (20 bed-nights). The mother chooses not to apply for TA.

Example 4: Total District Payments to Residential Program
Residential program received: $300 (per diem for 3 people) x 20 (bed-nights) = $6,000.

- $0 from TA
- $6,000 from Non-TA

EXAMPLE 5
(Does Not Initially Apply for TA; then while still in shelter, chooses to apply at a later date)

TA can only begin to pay for an individual's shelter as of the application date for TA. Therefore, if an individual initially chooses not to apply for TA, but then later changes their mind and applies, the time period up until the date of TA application will need to be paid with non-TA funding.
NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES
DOMESTIC VIOLENCE RELEASE OF INFORMATION

READ FIRST:
This release allows a social services district and/or domestic violence program to share some of your confidential information in order to determine if you are eligible for benefits that may help you obtain food, emergency and permanent housing, and child care subsidies. You have a right to request an advocate at the domestic violence program discuss with you the alternatives, safeguards, and potential consequences and benefits that could result in sharing your confidential information. When confidential information is shared with a social services district, state law protects the confidentiality of your information. You can use this form to choose what is shared, with whom and for how long.

This form is required for all victims of domestic violence who are applicants and recipients of public assistance, also known as temporary assistance. If you do not wish to apply for or continue to receive public assistance, then your local social services district will cover the costs of your stay in the domestic violence shelter through non-public assistance funding sources.

I, [Name] , authorize the following agency/agencies:

Check all that are applicable
What was the date of the domestic violence incident that made you come to the shelter? _____ / _____ / _____

In what county was your home address on that date? [county name]

☐ [Name of Local Social Services District(s)] Social Services District(s)
☐ [Name of the Domestic Violence Agency] Domestic Violence Program to share the following information with:
☐ [Name of Local Social Services District(s)] Social Services District(s)
☐ [Name of the Domestic Violence Agency] Domestic Violence Program

What information about me can be shared: Information necessary for public assistance

I understand the following:
☐ I do not have to sign this release form to receive domestic violence services. I do not have to allow the above agencies to share my information. Signing a release form is completely voluntary.

☐ I have to sign this release form, and share the information necessary for public assistance, if I want to receive public assistance.

☐ The agencies referenced above may be required to share my information with others where required by law, regulation, or program administration. Social services districts are required by state law to protect the confidentiality of my information.

This release expires on [Date] _____ / _____ / _____
(Expiration should meet the needs of the victim to accomplish the desired purpose. For domestic violence residential services, this is usually 180 days, the maximum length of stay in a residential domestic violence program.)

I understand that this release is valid when I sign it, and that I may withdraw my consent to this release at any time either verbally or in writing.

SIGNED: X DATE: / / 

Reaffirmation and Extension (if additional time is necessary to meet the purpose of this release)
I confirm that this release is still valid, and I would like to extend the release until [New Date] _____ / _____ / _____.

SIGNED: X DATE: / / 

Page 1 of 2
Instructions for Completing Release of Information Form

TOP OF FORM:
- Print your first and last name.

AUTHORIZED AGENCIES THAT MAY SHARE INFORMATION:
- Check the applicable boxes of the agency or agencies that initially can obtain your information.
- Print the name of the social services district that will receive the information. (Example: Albany County)
- Print the name of the domestic violence program that is providing you shelter. (Example: A New Hope Center Inc.)

AUTHORIZED AGENCIES THAT MAY RECEIVE INFORMATION:
- Check the applicable boxes of the agency or agencies that need to receive your information.
- Print the name of the social services district. (Example: Allegany County)
- Print the name of the domestic violence program that is providing you shelter. (Example: A New Hope Center Inc.)

INFORMATION ABOUT ME THAT MIGHT BE SHARED:
- The box is pre-filled with "Information necessary to apply and receive public assistance."

I UNDERSTAND STATEMENTS:
- Check the box to indicate you understand that completing the release of information is not required.
- Check the box to indicate you understand that completing the release of information is required to receive public assistance.
- Check the box to indicate you understand that the social services district may be required by law to share your information. (Example: reports related to child abuse)

RELEASE EXPIRATION DATE:
- Fill in a date to indicate how long you wish your information to be shared. (Example, you could fill in a date 180 days from today to match the maximum length of stay to remain in a residential program for victims of domestic violence.)

SIGNATURE LINE:
- Sign your name and fill in today’s date.

REAFFIRMATION AND EXTENSION AREA:
- Once the original signature date expires, if you need the release to be continued, enter in a new expiration date (it is suggested no longer than 60 days from the current expiration).
- Sign your name and fill in the date you completed the extension area.
- Please note: This area may be updated as many items as possible to continue the sharing of information as long as you feel it is necessary.
## DETERMINATION WORKSHEET FOR DOMESTIC VIOLENCE PROGRAMS FOR VICTIMS NOT RECEIVING OR APPLYING FOR TEMPORARY ASSISTANCE (TA)

<table>
<thead>
<tr>
<th>Domestic Violence (DV) Agency Name:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>DV Program Name:</td>
<td></td>
</tr>
<tr>
<td>OCFS Domestic Violence Information System (DVIS) Program Code:</td>
<td></td>
</tr>
<tr>
<td>The Office of Children and Family Services (OCFS) DVIS PRIMARY ID:</td>
<td></td>
</tr>
</tbody>
</table>

### DATE: / /  

### A. The victim has consented to provide information necessary to complete this worksheet:  
- YES ☐ (Go to B.)  
- NO ☐ (Go to C.)  

### B. If YES, then:  
- a. What was the date of the DV incident that prompted the victim’s entry into the DV shelter? / / /  
- b. What is the victim’s county of residence on that date? _____  

**That is the DFR while the person remains in the DV shelter.**

### C. If NO, then what is the social services district in which the DV program is located? _____  

**That is the DFR while the person remains in the DV shelter.**

After the victim leaves the DV shelter, other DFR rules would apply as appropriate (for example, the Transition Rule). See OTDA 06 INF-34 for further information.

**PLEASE USE CAUTION IN EXCHANGING INFORMATION ABOUT VICTIMS OF DOMESTIC VIOLENCE. CHECK WITH YOUR SUPERVISOR OR THE DOMESTIC VIOLENCE LIAISON TO DETERMINE HOW INFORMATION SHOULD BE EXCHANGED.**
Instructions for Completing the District of Fiscal Responsibility (DFR) Determination Worksheet for Domestic Violence Programs for Victims not Receiving or Applying for Temporary Assistance (TA)

This form is utilized only when a victim of domestic violence (DV) chooses not to apply for TA. DV programs shall utilize this form in order to determine the DFR responsible for payment of a victim’s stay in a residential program for victims of DV. Do not use this form when a victim is receiving or applying for TA. DV programs are expected to present the DFR worksheet to DV victims and request the information within the first business day of a victim’s stay. DV victims are not required to supply the information requested. Should a DV victim decline to provide the information necessary to complete this form, the attempt to obtain the information will be documented in their case file and programs may make subsequent requests that the DV victim voluntarily provide the information. In the absence of this information the where-found district is fiscally responsible for meeting that need.

OCFS DVIS PROGRAM CODE:
This is the code in DVIS that is specific to the facility (e.g., DV shelter, DV program, safe dwelling, safe home network). It also the code that appears on the operating certificate for the facility (Example: A022201).

OCFS DVIS PRIMARY ID:
The “Primary ID” in DVIS is developed by the DV program to identify the family unit. DV program must the following Primary ID convention: Last four digits of program code (e.g. A011201) followed by sequential numbering for each primary ID. Example: 1201-00001, 1201-00002, 1201-99999.

DATE:
The date the form is sent to the DFR.

A. The victim has consented to provide information necessary to complete this worksheet:
Check YES if the victim consents to share the information necessary to complete this worksheet. Check NO if the victim does not consent to share this information, and complete only question C.

B. If the client has consented to provide information, answer these two questions:
   a. What was the date of the domestic violence (DV) incident that prompted the victim’s entry into the DV shelter?
      This is the date the victim of domestic violence provides to the DV shelter at intake.
   b. What is the victim’s county of residence on that date?
      Enter the name of the county the victim was living in at the time of the domestic violence incident. See OTDA 06 INF-34 for further information.

C. If the client has NOT consented to provide information, the DV program enters the name of the social services district in which the DV program is located.
   Enter the name of the social services district in which the DV program is located.
Domestic Violence Prevention Act of 1987

Section 459-A Definitions
Social Services (SOS)

As used in this article: 1. "Victim of domestic violence" means any person over the age of sixteen, any married person or any parent accompanied by his or her minor child or children in situations in which such person or such person's child is a victim of an act which would constitute a violation of the penal law, including, but not limited to acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted assault, attempted murder, criminal obstruction of breathing or blood circulation, or strangulation; and

(i) such act or acts have resulted in actual physical or emotional injury or have created a substantial risk of physical or emotional harm to such person or such person's child; and

(ii) such act or acts are or are alleged to have been committed by a family or household member.

2. "Family or household members" mean the following individuals:

(a) persons related by consanguinity or affinity;

(b) persons legally married to one another;

(c) persons formerly married to one another regardless of whether they still reside in the same household;

(d) persons who have a child in common regardless of whether such persons are married or have lived together at any time;

(e) unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same
household;

(f) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors that may be considered in determining whether a relationship is an "intimate relationship" include, but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship"; or

(g) any other category of individuals deemed to be a victim of domestic violence as defined by the office of children and family services in regulation.

3. "Parent" means a natural or adoptive parent or any individual lawfully charged with a minor child's care or custody.

4. "Residential program for victims of domestic violence" means any residential care program certified by the department and operated by a not-for-profit organization in accordance with the regulations of the department for the purpose of providing emergency shelter, services and care to victims of domestic violence. Residential programs for victims of domestic violence shall include, but shall not be limited to:

(a) "Domestic violence shelters", which shall include any residential care facility organized for the exclusive purpose of providing emergency shelter, services and care to victims of domestic violence and their minor children, if any;

(b) "Domestic violence programs" which shall include any facility which otherwise meets or would meet the requirements of paragraph (a) of this subdivision, except that victims of domestic violence and their minor children, if any, constitute at least seventy percent of the clientele of such program; and

(c) "Safe home networks" which shall include any organized network of private homes offering emergency shelter and services to victims of domestic violence and their minor children, if any. Such network shall be coordinated by a not-for-profit organization.
5. "Non-residential program for victims of domestic violence" means any program operated by a not-for-profit organization, for the purpose of providing non-residential services to victims of domestic violence, including, but not limited to, information and referral services, advocacy, counseling, and community education and outreach activities and providing or arranging for hotline services. Victims of domestic violence and their children, if any, shall constitute at least seventy percent of the clientele of such programs.

Section 459-B Residential services for victims of domestic violence

Social Services (SOS)

In accordance with section one hundred thirty-one-u of this chapter and the regulations of the office of children and family services, a social services district shall offer and provide necessary and available emergency shelter and services for up to ninety days at a residential program for victims of domestic violence to a victim of domestic violence who was residing in the social services district at the time of the alleged domestic violence whether or not such victim is eligible for public assistance. Two forty-five day extensions of necessary and available emergency shelter may be granted beyond the maximum length of stay at a residential program for victims of domestic violence for residents who continue to be in need of emergency services and temporary shelter. If the victim of domestic violence has a service animal or therapy dog as such terms are defined in section 123-b and section 108 of the agriculture and markets law, respectively, such service animal or therapy dog shall be allowed to accompany the victim at the residential program authorized pursuant to this section.

* Effective until December 28, 2016

* § 459-b. Residential services for victims of domestic violence. In accordance with section one hundred thirty-one-u of this chapter and the regulations of the office of children and family services, a social services district shall offer and provide necessary and available emergency shelter and services for up to ninety days at a residential program for victims of domestic violence to a victim of domestic violence who was residing in the social services district at the time of the alleged domestic violence whether or not such victim is eligible for public assistance. Two forty-five day extensions of necessary and available emergency shelter may be granted beyond the maximum length of stay at a residential program authorized pursuant to this section.
length of stay at a residential program for victims of domestic violence for residents who continue to be in need of emergency services and temporary shelter. If the victim of domestic violence has a service animal as such term is defined in section one hundred twenty-three-b of the agriculture and markets law, or therapy dog as such term is defined in section one hundred eight of the agriculture and markets law, respectively, such service animal or therapy dog shall be allowed to accompany the victim at the residential program authorized pursuant to this section, so long as such accompaniment would not create an undue burden as defined by section two hundred ninety-six of the executive law.

Where such accompaniment would constitute an undue burden, the residential program shall make reasonable efforts to facilitate placement of such animal at an off-site animal care facility or if reasonable efforts fail, provide referral to one or more off-site animal care facilities. Such off-site animal care may include, but not be limited to, boarding at a veterinary hospital or under the auspices of a duly incorporated humane society, or duly incorporated animal protection association approved for such purpose by the department of agriculture and markets.

Nothing in this section shall be construed to limit any rights or obligations provided pursuant to federal or state law, including but not limited to providing reasonable accommodations for individuals with disabilities.

* Effective December 28, 2016

Section 459-C Non-residential services for victims of domestic violence
Social Services (SOS)

1. In accordance with the provisions of this section and the regulations of the department, a social services district shall offer and provide non-residential services including but not limited to, information and referral services, advocacy, counseling, community education and outreach activities, and hotline services, to a victim of domestic violence whether or not the victim is eligible for public assistance. A social services district may provide such non-residential services directly or may purchase such services from a not-for-profit organization operating a residential program and/or a
non-residential program for victims of domestic violence.

2. To the extent that funds are appropriated expressly therefore and a social services district has exhausted its allocation under title XX of the federal social security act, state reimbursement shall be available for fifty percent of the expenditures made by a social services district for those non-residential services provided to victims of domestic violence which are included in the social services district's multi-year consolidated services plans and annual implementation reports approved by the department pursuant to section thirty-four-a of this chapter.

Section 459-D Reporting requirements
Social Services (SOS)

The commissioner shall submit a report prior to December fifteenth, nineteen hundred eighty-eight and annually thereafter to the governor and the legislature regarding the implementation of this article. Such report shall include:

1. the number of persons estimated to have been assisted in programs covered by this article;

2. the number of persons estimated to have been denied shelter and/or services;

3. the amount of public and private funds for approved programs by service type;

4. the amount of funds used for the administration and staffing of such programs;

5. the occupancy rate and length of stay by residential program;

6. the name and description of new programs developed by service type;

7. the name and description of programs in danger of closing that received funds and the status of such programs;

8. the name and description of programs that closed during the reporting year and the reason for such closure;
9. the number of individuals who requested and received transitional services and the effect of providing such services to victims of domestic violence and their families;

10. the name and description of programs which received technical assistance and the effect of such assistance;

11. a schedule showing the approved daily rates of reimbursement payable to residential programs for victims of domestic violence pursuant to section one hundred thirty-one-u of this chapter; and

12. all such other matters as may be necessary to inform the governor and the legislature regarding the implementation and effectiveness of programs covered by this article.

Section 459-E Technical assistance
Social Services (SOS)

To the extent that funds are available, the department shall arrange for or provide technical assistance to residential and non-residential programs for victims of domestic violence. Technical assistance shall include, but shall not be limited to, budgeting techniques, fund raising and program management.

Section 459-F Fees for services
Social Services (SOS)

Any program defined in subdivision four of section four hundred fifty-nine-a of this article may charge a service fee to a victim of domestic violence who is able to pay all or part of the costs of the emergency shelter and services provided to the victim. Payments by a social services district to a residential program for victims of domestic violence for the costs of emergency shelter and services provided to a victim of domestic violence at the daily reimbursement rate determined by the department in accordance with section one hundred thirty-one-u of this chapter shall be reduced by the sum of all fees which such victim is able to pay toward the costs of such shelter and services as determined in
accordance with the public assistance budgeting rules set forth in the regulations of the department and by any third party reimbursement available for such costs.

Section 459-G Cooperation of an abuser not required as a condition of eligibility for benefits or services
Social Services (SOS)

Cooperation of an abuser not required as a condition of eligibility for benefits or services. 1. Neither the state, a political subdivision of the state, a public authority, nor any employee or agent thereof shall, in any way, condition eligibility or receipt of services or benefits by a victim of domestic violence, as defined in this article, by requiring the victim to contact the person who perpetrated such domestic violence or by requiring the person who perpetrated such domestic violence to complete any forms, provide any information, appear in person, or cooperate in any other manner as a part of such victim's application for or process of certification for continued receipt of any services or benefits in this state.

2. Although such information or cooperation shall not be required as a condition of eligibility for or receipt of such services or benefits, in the event the governmental entity, employee or agent seeks any such information or cooperation, such entity, employee or agent shall, if informed consent is given in writing by such victim of domestic violence, provide an intermediary to make such contact in a manner that protects the privacy, confidentiality and current location of the victim. In the event the governmental entity, employee or agent seeks any such information or cooperation to comply with any federal law, regulation or mandate, such entity, employee or agent shall so advise the victim of domestic violence and provide an intermediary to make such contact on behalf of the victim in a manner that will protect the privacy, confidentiality and current location of the victim.

Section 459-H Confidentiality
Social Services (SOS)

1. The street address of any residential program for victims of domestic violence applying for funding pursuant to this article shall be confidential and may be disclosed only to persons designated by rules and regulations of the department.
2. All information related to the general location or specific street address of a structure anticipated to house a residential program for victims of domestic violence that is contained in any application submitted to a state or local agency or any instrumentality thereof prior to the filing of an application for funding pursuant to this article shall be kept confidential by those entities and their employees and may be disclosed only to persons designated by the rules and regulations of the department.
The Office of Children and Family Services (OCFS) reviewed existing regulations related to programs providing services (residentially and non-residentially) to victims of domestic violence. The purpose of the review is to bring the current regulations into compliance with current federal/state statute and as applicable, provide clarification to existing requirements.

Overall
- Clean up of grammar/spelling errors
- Updated all references of “department” to “Office”

Part 452 – General Provisions
- Clarification of existing definitions and new terms added.
- Language added to provide clarification of the roles and responsibilities of Board of Directors.
- Clarification of enforcement actions that may be taken by OCFS.
- Clarification of rights and responsibilities for residents and programs.
- Definitions, admissions standards, rights and responsibilities related to service animals and therapy dogs.
- Clarification related to the confidentiality of personally identifying information.
- Clarification of record retention requirements.
- Clarification of personnel requirements not previously covered in the 2017 adopted regulations related to background checks of publicly funded emergency shelters for families and children.
- Emergency Core Services repealed from respective Part 453, Part 454 and Part 455 and added as new Section 452.12 to provide consistency of core services across all modalities.

Part 453 (Shelters/Mix Occupancy Shelter), Part 454 (Safe Home Networks), Part 455 (Sponsoring Agencies)
- Environmental Standards – applicable changes made to physical plant requirements to better match existing fire, health, and safety standards and statute.
- Staffing – clarifying language for various shifts.

Part 462 – Non-Residential Services for Victims of Domestic Violence
- Clarification of child abuse and maltreatment reporting requirements.
- Clarification of the confidentiality of personally identifying information.
- Staffing – language added regarding staff training.
- Clarification of emergency core services.
Paragraph (1) of subdivision (c) of Section 408.4 of Title 18 is amended as follows:

(1) When a residential program [makes a determination] determines that a person is eligible for admission and admits such person into the program, it must provide notice [by telephone] of such admission to the social services district where the person resided at the time of the domestic violence incident. Such notice must be given on or before the first working day following admission; provided, however, that personally identifying information may only be disclosed to the social services district if the program has received written, informed and time-limited consent from the victim of domestic violence to share that information. If the residential program is not located in the social services district in which the victim of domestic violence resided at the time the domestic violence incident occurred, the person may submit an application for public assistance and care to the district in which the program is located. In such a case, notice [by telephone] of admission must also be given by the residential program to the social services district in which the residential program is located on or before the first working day following such admission. The social services district in which the residential program is located must forward the completed application, within five days of its receipt, to the social services district in which the person resided at the time of the domestic violence incident in accordance with section 311.4(b) of this Title.

Section 408.5 of Title 18 is renamed as follows:

408.5 [Financial eligibility.y] Social services district payment responsibility.

Paragraph (1) of subdivision (a) of Section 408.5 of Title 18 is amended as follows:

(1) The social services district in which a victim of domestic violence was residing at the time of the domestic violence incident is financially responsible for making payments to a residential program for victims of domestic violence for the costs of temporary shelter, emergency services and care provided to such victim and any minor child of such victim whether or not the victim is financially eligible for public assistance and care [if:

(i) the victim is eligible for admission to the residential program pursuant to section 408.4 of this Part; and

(ii) the social services district receives a public assistance application on behalf of the victim pursuant to subdivision (b) of this section].

New paragraphs (2) and (3) of subdivision (a) of 408.5 of Title 18 are added, and subsequent paragraphs are amended and renumbered as follows:

(2) A victim of domestic violence shall be provided written information explaining their right to apply for public assistance and care and relevant information to make an informed decision whether to apply for such assistance. This information must include, but is not limited to: understanding what personally identifying information is required, how that information will be used, and what benefits and services are available through public assistance and care.

(3) A social services district cannot require that a victim of domestic violence apply for public assistance and care in order to receive domestic violence services.
The social services district in which the victim of domestic violence was residing at the time of the domestic violence incident is responsible for determining the victim’s financial eligibility for public assistance and care, if the victim chooses to apply for public assistance and care, pursuant to subdivision (b) of this section or otherwise providing payment for the costs of emergency shelter and services provided to a victim of domestic violence at the daily reimbursement rate determined by the Office of Children and Family Services pursuant to section 131-u of the Social Services Law reduced by the sum of any other reimbursement available for such costs.

Subparagraphs (i), (ii) and (iii) of paragraph (1) of subdivision (b) of Section 408.5 of Title 18 are amended as follows:

(i) emergency assistance to needy families [pursuant to section 350-j of the Social Services Law] with children, pursuant to Part 372 of this Title;

(ii) [aid to dependent children] family assistance, pursuant to [section 349 of the Social Services Law] Part 369 of this Title;

(iii) [home relief] safety net assistance, pursuant to [sections 157 and 158 of the Social Services Law] Part 370 of this Title; or

Subparagraphs (i), (ii) and (iii) of paragraph (2) of subdivision (b) of Section 408.5 of Title 18 are amended as follows:

(i) the victim is eligible for admission to a residential program for victims of domestic violence pursuant to section 408.4 of this Part; and

[(ii) the victim applies for public assistance and care pursuant to Part 350 of this Title; and

(iii)] (ii) to the extent such victim remains in the residential program, and the victim chooses to complete[] the application process for public assistance and care pursuant to Parts 350 and 351 of this Title [and], if eligible for public assistance and care, the victim [complies] must comply with any statutory or regulatory requirements relating to the receipt of such public assistance and care.

Paragraph (2) of subdivision (b) of Section 408.5 of Title 18 is repealed, and subsequent Paragraphs (3) and (4) are renumbered and amended as follows:

[(3)2] The social services district in which the victim of domestic violence was residing at the time of the domestic violence incident is responsible for determining the victim’s eligibility for public assistance and care, if such victim chooses to apply for public assistance and care, pursuant to Parts 351, 352, and 369 or 370 or 372 of this Title. Such social services district cannot require the public assistance applicant or recipient to apply any earned or unearned income toward the unmet shelter cost after the public assistance benefit is applied toward the cost of housing. To the extent that funds are appropriated and a social services district has exhausted its allocation under Title XX of
the Federal Social Security Act that is required to be spent on adult protective or domestic violence services, such payments made by a social services district will be subject to the applicable state reimbursement.

([4]3) Persons who are receiving public assistance and care at the time of entry into a residential program for victims of domestic violence must notify the social services district providing such assistance of the change in their circumstances, [and request an additional allowance to pay for the cost of temporary shelter, emergency services and care at the residential program]. Upon consent of a victim of domestic violence who was receiving public assistance and care at the time of entry into the residential program for victims of domestic violence, or chooses to apply for public assistance and care during the time of residing in such program and is found eligible for public assistance and care, a social services district must apply the shelter allowance portion of the victim of domestic violence’s public assistance benefit, up to the daily reimbursement rate determined by the Office of Children and Family Services pursuant to section 131-u of the Social Services Law reduced by the sum of any other reimbursement available for such costs, to reimburse a residential program for victims of domestic violence for the costs of emergency shelter and services.

Paragraph (2) of subdivision (c) of Section 408.5 of Title 18 is repealed, and new paragraphs are amended as follows:

Subdivision (c) of Section 408.5 of Title 18 is amended as follows:

(c) Reimbursement for services provided to victims of domestic violence who are ineligible or who do not apply for public assistance and care.

(1) [When] Where a social services district determines that a victim of domestic violence is ineligible for public assistance and care, or has chosen not to apply for public assistance and care, [the social services district must determine the victim's ability to pay all or part of the costs of such shelter, services and care based upon the information the victim provided on his or her application for public assistance and care.] a social services district financially responsible for a victim of domestic violence shall reimburse a residential program for victims of domestic violence for the costs of emergency shelter and services provided to such victim at the daily reimbursement rate established by the Office of Children and Family Services reduced by any other reimbursement available for such costs. To the extent funds are appropriated and a social services district has exhausted its allocation under Title XX of the federal Social Security Act that is required to be spent on adult protective or domestic violence services, such expenditures made by a social services district will be subject to applicable State reimbursement.

(2) A social services district may choose to seek reimbursement of expenditures for residential domestic violence services through its allocation under Title XX of the federal Social Security Act, or any other funding source, so long as reimbursement is in accordance with the applicable funding source requirements.

Subdivision (d) of Section 408.5 of Title 18 is repealed.
Subparagraph (xii) of subparagraph (7) of subdivision (a) of Section 452.9 of Title 18 is amended as follows:

(xii) the right to manage one’s own financial affairs [], including information regarding public assistance and care so that the resident can make an informed decision about whether to apply for benefits, including what benefits are available, what personally identifying information is required for the application, and how that information will be used;

A new paragraph (2) is added to subdivision (b) of 452.9 of Title 18 as follows and the subsequent paragraphs (2) – (7) are renumbered to (3) – (8) respectively.

(2) The program must maintain non-personally identifying statistical information for the purpose of reimbursement from a social services district as provided in section 452.10(a)(4)(c) of this Part.

Subparagraph (c) of subparagraph (ii) of paragraph (4) of subdivision (a) of Section 452.10 of Title 18 is amended as follows:

(c) [to those elements of the resident case record as listed below] for the purposes of reimbursing a residential program for victims of domestic violence the approved per diem rate, the following non-personally identifying information:

(1) the [name] date of admission of the resident for whom an approved per diem rate will be paid;

(2) the [name of any] date of admission for each minor child[ren] for whom an approved per diem rate will be paid;

(3) the business address of the residential program for victims of domestic violence;

(4) the date of the resident’s [entered] departure from the program;

(5) the date of the resident’s minor children (if any) departure from the program; [and]

(6) the social services district in which the victim of domestic violence was residing at the time of the domestic violence incident; and

[(6)](7) other relevant information which identifies a resident's service and safety needs;
18 NYCRR Part 454 is repealed and a new 18 NYCRR Part 454 is adopted as follows:

PART 454 STANDARDS FOR SAFE HOME NETWORKS AND SAFE HOMES
Sec.
454.1 Scope
454.2 Definitions
454.3 General requirements for operation of a safe home network
454.4 Responsibility for placement
454.5 Maximum length of stay
454.6 Safe home network responsibilities/resident responsibilities
454.7 Nutrition
454.8 Staffing
454.9 Requirements for approving safe homes
454.10 Records and reports
454.11 Supervision of safe homes

Section 454.1 Scope. The provisions of this Part, along with the provisions of Part 452 of this Title, apply to safe home networks and safe homes for victims of domestic violence, and are separate from Parts 453 and 455 of this Title.

454.2 Definitions. Along with the provisions of Part 452.2 of this Title, for the purposes of this Part, the following definitions apply:

(a) Family or household member means each person who is currently residing in the home of the prospective or approved safe home provider.

(b) Safe home provider means a person who has been approved by a safe home network to provide temporary shelter in his/her residence to victims of domestic violence.

454.3 General requirements for operation of a safe home network.

(a) Safe home networks are responsible for approving safe homes Residents may only be placed in those safe homes which have met the requirements for approval as contained in section 454.9 of this Part.

(b) Safe home networks having a maximum length of stay policy of less than 90 days must have an established linkage, to the extent shelters and services are available, with an approved domestic violence shelter or domestic violence program to refer safe home residents who continue to be in need of temporary shelter and emergency services beyond the stay permitted at a safe home.

(c) Safe home networks must develop a recruitment and retention plan to facilitate the availability of safe homes for victims of domestic violence and their children who need temporary shelter and emergency services. Such plan should articulate the strategies the safe home network is using to generate a sufficient number of safe homes as indicated on the safe home network operating certificate.

454.4 Responsibility for placement. In addition to the admission standard set forth in section
452.9(a)(5) of this Title, prior to each placement, safe home networks must make an inquiry into the general health and well-being of each member of the safe home household and arrange to place prospective residents in only those approved homes that the network has ascertained have no health problems which could endanger the health, safety or well-being of prospective residents.

454.5 Maximum length of stay. The provisions of section 452.9(c) of this Title apply to the maximum length of stay of residents in safe homes; provided, however, that networks may impose a length of stay which is less than the maximum set forth in such section.

454.6 Safe home network responsibilities/resident responsibilities. In addition to the provisions set forth in section 452.9(a)(6) of this Title, the written agreement entered into by the safe home network and the resident must contain:

(a) the rules of the safe home provider;
(b) the requirement for residents to keep confidential the name and address of the safe home provider and any other residents and to disclose such information only to those persons authorized by the network;
(c) the requirement of residents to be responsible for the supervision and management of their children during their stay in a safe home; and
(d) the requirement for safe home networks to have contact with each adult resident twice each week.

454.7 Nutrition

(a) Safe home networks must ensure that three well-balanced and nutritious meals are available daily to residents either at the safe home or offsite.

(b) Consideration must be given to medically prescribed nutritional needs, culture and religious practices. Nothing herein requires the maintenance of separate kitchen facilities or supplies to comply with cultural or religious practices.

454.8 Staffing.

(a) General requirements.

The term staff, as used in this section, means compensated employees and volunteers of the safe home network.

(b) Staff/resident ratios.

(1) There must be at a minimum one employee who is designated director of the safe home network and who is responsible for the general management and
administration of the network and safe home program. The director is responsible for the supervision of volunteers and safe home providers, or for the designation of an employee to supervise volunteers and safe home providers, and for identifying and designating a sufficient number of qualified staff to ensure the delivery of core emergency services and, if available, optional emergency services specified in section 452.12 of this Title to all eligible residents.

(2) A minimum of one employee or volunteer of the safe home network or an employee or volunteer of a designee of the safe home network must be on call at all times to receive crisis calls as set forth in section 452.12(a) of this Title.

454.9 Requirements for approving safe homes. The safe home network is responsible for approving safe homes and such approval is dependent upon a visit to the prospective safe home by the safe home network and the safe home provider meeting the following requirements:

(a) Each safe home provider must be at least 18 years old.

(b) Staff of the safe home network, who have qualifications to administer the safe home network or provide core emergency services as specified in section 452.12 of this Title, must conduct at least one face-to-face interview with each person over the age of 18 who is currently residing in the home of such prospective safe home to ascertain the following:

(1) the person's understanding of the nature of family violence;
(2) the person's ability to be nonjudgmental;
(3) the person's attitude and, where possible, the attitude of any minor children in the household about establishing a safe home;
(4) the hours of availability of the prospective safe home; and
(5) that each member of the safe home household is reported to be in good general health and that there are no health or other family problems that could negatively affect residents.

(c) Orientation/training. Prior to the placement of residents into the safe home the safe home provider must receive an orientation to the safe home network program. When the safe home provider has no previous experience or training in the field of domestic violence, appropriate training on domestic violence must also be provided.

(d) Safe homes must meet the following environmental standards:

(1) Safe homes must provide an atmosphere of privacy, support and understanding, and one which is safe and confidential.

(2) Safe homes must be maintained in a state of good repair and sanitation, be free of safety hazards and be in substantial compliance with all applicable local and State health and safety laws or regulations for one or two family dwellings or
multiple family dwellings classified for permanent occupancy.

(3) Heating systems shall be capable of maintaining a minimum room temperature of 68 degrees Fahrenheit in all habitable rooms and maintained in good working order.

(4) Safe homes must provide a sleeping area for adult residents which is separate from the sleeping area of safe home household members.

(5) Children residing in safe homes may share a sleeping area with members of their own family or with other children in the safe home household.

(6) Each resident must be provided with clean bedding, basic toilet articles such as towels and washcloths and space for his/her personal possessions.

(7) There must be adequate bathing, toilet and lavatory facilities which must be kept in sanitary condition.

(8) No hazardous conditions must be permitted to exist in any part of the safe home. The following requirements must be complied with in order to eliminate hazardous conditions:

(i) hallways and corridors must not be used for storage of equipment or trash;

(ii) stairways must have sturdy and securely fastened handrails; and

(iii) all electrical cords and plugs must be in good condition with no exposed or frayed wiring.

(vi) In addition, the following safety requirements must be met by safe homes providing emergency shelter to residents who are children and safe home networks must not arrange to place a child in a safe home which does not meet the following requirements:

(a) all medications (prescription and over-the-counter) must be kept in a secured place and out of reach of children; and

(b) containers of chemical cleaning agents and other toxic material must be labeled, stored and secured in places - out of reach of children.

(9) Each safe home must be free from fire hazards and must be equipped with operational smoke detectors located in every sleeping room, on each floor and in the corridor adjacent to any sleeping rooms.

(10) Each safe home must be equipped with an ABC rated fire extinguisher in the kitchen, laundry room and furnace room.

(11) Carbon monoxide detector(s) must be installed and maintained on each level of the safe home that contain sleeping areas in accordance with the Uniform Code
and manufacturer’s installation instructions.

(12) Each safe home provider must have disaster and emergency procedures to be followed in the event of an emergency or disaster, such as a fire or a flood, which must be explained to new residents upon arrival.

(13) A telephone with emergency telephone numbers for fire, police and medical assistance posted nearby must be made available to residents.

(14) Wood or coal burning stoves, fireplaces, pellet stoves and permanently installed gas space heaters used at any time in the safe home must be approved by local authorities or an inspector qualified to approve fuel burning systems.

(15) While residents as defined in 454.2 of this Part are residing in the safe home, all firearms, shotguns, rifles, and ammunition must be securely stored and inaccessible to residents.

(i) Ammunition shall be stored in a safe storage depository as defined in (iii) in this section.

(ii) Firearms, shotguns and rifles shall be secured unloaded with an appropriate trigger locking device, or stored in a safe storage depository as defined in (iii) of this section.

(iii) A safe storage depository shall be a safe or other secure container which, when locked, is incapable of being opened without the key, combination or other unlocking mechanism and is capable of preventing an unauthorized person from obtaining access to and possession of the weapon or ammunition contained therein.

(iv) Safe home providers shall give written notice to safe home network and residents on forms furnished by the Office or an approved equivalent, that a firearm, shotgun, rifle or ammunition is on the premises.

(e) Upon a determination by the safe home network that the safe home is in full compliance with all regulatory standards contained in this section, the network must issue a written approval to the safe home provider(s). Such approval, which is non-transferrable to another person or location, will be for a one year duration and must contain:

(1) a statement which clearly specifies: the name of the provider, the location of the safe home, the date of approval, the non-transferrable status of the approval, the purpose of the approval which must be to provide temporary shelter to victims of domestic violence, and the maximum number of adults and children, if any, who can be admitted as residents of the safe home and authorized to receive emergency shelter in such home; and

(2) an agreement signed by the safe home network and the safe home provider which includes, but need not be limited to, the following responsibilities:

(i) safe home network responsibilities:
(a) to refer only residents appropriate for admission as specified in section 454.4 of this Part;

(b) to the extent possible, to arrange for the resident's transportation to the safe home;

(c) to reimburse safe home providers for temporary shelter and other needs met by the safe home provider subject to payment under the per diem rate

(d) to evict residents from a safe home who the provider finds to be disruptive to the safe home or a threat to the well-being of other individuals residing in the safe home;

(e) to develop a plan which addresses how damages to the safe home will be handled in the event any damage occurs which was caused by residents;

(f) to develop a plan for resolving conflicts between the safe home provider and residents;

(g) to inform the safe home provider that the Office has access to the safe home provider's name and the location of the safe homes;

(h) to maintain regular contact with the safe home provider whenever residents are being sheltered; and

(i) to have follow-up contact with the safe home provider within a week following a resident's departure; and

(ii) safe home responsibilities:

(a) to abide by the safe home network's rules;

(b) to inform the safe home network of any changes that affect the safe home household composition;

(c) to maintain, in a manner consistent with the records and reports and confidentiality provisions of sections 452.9(b) and 452.10 of this Title, the confidentiality of the purpose and location of the safe home and any residents they shelter;

(d) to provide emergency shelter to residents for only the length of time determined appropriate by the safe home network;

(e) to be available to communicate with the safe home network whenever residents are being sheltered;

(f) to notify the safe home network of any resident's unplanned departure from the safe home;
(g) to notify the safe home network immediately of any problems occurring while residents are being sheltered;

(h) to be available to the safe home network for a follow-up contact after the departure of a resident; and

(i) to explain to each new adult resident upon arrival the procedures to be followed in the event of a disaster and/or emergency.

454.10 Records and reports.

(a) In addition to the records and reports requirements of section 452.9(b) of this Title, the safe home network must maintain an individual record for each safe home which includes the following information:

(1) the date(s) the required interview(s) with each adult member of the safe home household, as required by section 454.9(b) of this Part, was held and a summary of the interview(s). Such summary must include an evaluation of the individual's understanding of family violence, the ability of such members to be nonjudgmental, the household members' attitudes about being a safe home provider and, where possible, the attitudes of the minor children in the household, the general health of the members of the safe home household and a description of the availability of the safe home;

(2) the date the provider attended orientation and training;

(3) a description of the safe home environment which includes a listing of all rooms in the home, the sleeping arrangements for residents, the safety procedures followed in the home, and the location of all smoke detectors, carbon monoxide detector(s), fire extinguishers and telephone(s);

(4) a list of the specific safe home rules to be discussed with residents prior to placement;

(5) a copy of the approved statement which contains the agreement signed by the safe home network and safe home provider specifying the network responsibilities/ safe home responsibilities;

(6) a copy of the annual reevaluation of the safe home which is issued under section 454.12(b) of this Part; and

(7) a record of complaints and of follow-up meetings and other contacts with the safe home provider, and of any fires, accidents or serious incidents occurring in the safe home, including a description of each incident, steps taken to control or manage the cause of the incident, and the steps taken to prevent the recurrence of such an incident.

(b) The network must maintain the following identifying information for every safe home provider:
454.11 Supervision of safe homes.

(a) Each safe home network is responsible for ensuring that safe homes approved by a safe home network pursuant to this Part operate in compliance with Office regulations.

(b) The safe home network must reevaluate each approved safe home on an annual basis using the standards contained in section 454.9 of this Part. Re-approval of safe homes will be conditioned upon compliance by such safe home with the provisions of section 454.9 of this Part. This reevaluation must be documented in the safe home record.

(c) The safe home network is required, where it determines that a safe home is operating in a manner which is contrary to the provisions of section 454.9 of this Part or which poses a threat to the life, health or safety of the residents, to direct the removal of the residents from the safe home.

(d) In the event that a complaint has been made against a safe home provider and the Office has found the health, safety and/or welfare of any resident of the safe home to be in imminent danger, the safe home network must cease using the safe home. The network must remove any residents from the safe home and must not place nor arrange to place any other residents in such home until the network can demonstrate to the Office that the endangering condition(s) have been corrected.

(e) The Office may conduct an onsite inspection of a safe home only:

(1) upon receipt of a complaint involving a safe home provider which is related to the operation of the safe home; or

(2) upon 24-hour notice to the safe home network for the purpose of conducting an audit of the safe home network where access is necessary to verify the existence of the safe home or other elements of the participation of the safe home provider with the safe home network, provided that prior to any onsite inspection of a safe home, the following occurs:

(i) the Office requests a meeting with the safe home network and/or safe home provider at the network Office and the safe home network is unable to meet with the Office in a timely manner; or

(ii) the Office has met with the safe home network and/or the safe home provider and the Office has made a determination that the information required for audit purposes cannot be obtained by any other means than by access to the safe home; or
(3) upon the written approval of the safe home provider. Nothing in this subdivision prevents a local child protective service from investigating a report of suspected child abuse or maltreatment in which the subject of the report is a safe home provider or a resident of a safe home.
18 NYCRR Part 452 is repealed and a new 18 NYCRR Part 452 is adopted as follows:

PART 452 GENERAL PROVISIONS

Sec.
452.1 Scope
452.2 Definitions
452.3 Application for an operating certificate
452.4 Required documentation in support of an application to operate a residential program for victims of domestic violence
452.5 Operating certificates: general provisions, enforcement and hearings
452.6 Renewal of the operating certificate
452.7 Amendment of the operating certificate
452.8 Supervision and inspection by the Office
452.9 General operational standards
452.10 Confidentiality
452.11 Personnel
452.12 Emergency Core Services

Section 452.1 Scope.

The definitions in this Part apply to all references to residential programs for victims of domestic violence included in this Title.

452.2 Definitions.

(a) Domestic violence programs are facilities which would meet the definition of domestic violence shelter, except that victims of domestic violence and their minor children, if any, constitute at least 70 percent of the clientele of such programs. The remaining 30 percent of the clientele of such programs may only consist of persons who will not be disruptive of the provision of services and will not jeopardize the safety and well-being of the residents. For the purposes of this Title, a domestic violence program may also be referred to as a “mixed occupancy shelter.”

(b) Domestic violence safe dwelling means a self-contained residence which is owned, leased, rented or otherwise under the direct control and supervision of a domestic violence sponsoring agency, meets the daily living needs of the residents, has a capacity of nine or fewer persons including adults and children, is secured as specified in section 455.8 of this Title, and has been designated by the domestic violence sponsoring agency to provide temporary shelter exclusively to victims of domestic violence.

(c) Domestic violence shelters are congregate residential facilities with a capacity of 10 or more persons, including adults and children, organized for the exclusive purpose of providing temporary shelter, and emergency services and care to victims of domestic violence and their minor children, if any.

(d) Domestic violence sponsoring agencies are not-for-profit organizations offering temporary shelter at a domestic violence safe dwelling and emergency services to victims of domestic violence and their minor children, if any.
(e) Emotional support or comfort animals include animals that may provide a sense of safety, companionship or comfort to their owners but are not trained to perform specific tasks related to a person’s disability.

(f) Not-for-profit organization means any organization which is a public agency or incorporated as a not-for-profit corporation or religious corporation under the laws of this State or which provides care and services in this State and has been granted Federal tax exempt status.

(g) Office means the New York State Office of Children and Family Services.

(h) Parent means a natural or adoptive parent or any individual lawfully charged with a minor child's care or custody.

(i) Person with a disability means a person who has:

1. a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques; or

2. a record of such impairment; or

3. a condition regarded by others as such an impairment.

(j) Provider means the operator or, if applicable, applicant for an operating certificate of any residential program for victims of domestic violence.

(k) Publicly funded emergency shelter for families with children means any facility with overnight sleeping accommodations and that is used to house recipients of temporary housing assistance and which houses or may house children and families with children.

(l) Reasonable accommodation for a disability means actions taken to modify existing policies, procedures or practices which permit a domestic violence victim or his/her child with a disability to be able to receive emergency services and/or temporary shelter as a victim of domestic violence, and which do not impose an undue burden on the residential program for victims of domestic violence.

(m) Resident means any victim of domestic violence who receives temporary shelter and emergency services in a residential program for victims of domestic violence.

(n) Residential program for victims of domestic violence, residential program, or program means any residential program approved by the Office and operated by a not-for-profit organization for the purpose of providing temporary shelter, emergency services and care to victims of domestic violence. Residential programs for victims of domestic violence include: domestic violence shelter, domestic violence mixed occupancy shelter, domestic violence sponsoring agencies, and safe home networks.

(o) Safe home means a self-contained private residence which is owned, leased, rented, or otherwise under the direct control of a single person or family or two or more unrelated persons which has been approved by a safe home network for the purpose of providing temporary shelter to victims of domestic violence and their minor children, if any.
Safe home network means an organized network of private homes offering temporary shelter and emergency core services as defined in section 452.12 of this Part to victims of domestic violence as defined in subdivision (t) of this section, and their minor children, if any. Such network must be coordinated by a not-for-profit organization.

Service animal means an animal that has been partnered with a person with a disability, or is being trained, by a qualified person, to aid or guide a person with a disability. The tasks or work the animal does must be directly related to the person’s disability. “Service Animal” does not include emotional support or comfort animals or therapy dogs, as such terms are defined in this Part.

Therapy dog means any dog that is trained to aid the emotional and physical health of patients in hospitals, nursing homes, retirement homes, or other settings, and is actually used for such purpose.

Victim of domestic violence means any person 16 years of age or older, any married person or any parent accompanied by his/her minor child(ren) in situations in which such person or such person's child is a victim of an act which would constitute a violation of the Penal Law, including, but not limited to acts constituting disorderly conduct, harassment, menacing, reckless endangerment, kidnapping, assault, attempted assault, or attempted murder; and

1. such act or acts have resulted in actual physical, sexual, economic or emotional injury or have created a substantial risk of coercive control, physical, sexual, economic, or emotional harm to such person or such person's child; and

2. such act or acts are or are alleged to have been committed by a family or household member. Family or household members means the following individuals:

(i) persons related by blood or marriage;

(ii) persons legally married to one another;

(iii) persons formerly married to one another regardless of whether they still reside in the same household;

(iv) persons who have a child in common regardless of whether such persons are married or have lived together at any time;

(v) unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household; or

(vi) unrelated persons who have had intimate or continuous social contact with one another and who have access to one another's household.

452.3 Application for operating certificate.
(a) No place, person, association, corporation, institution or agency may operate a residential program for victims of domestic violence without a current certificate issued by the Office.

(b) All applications for a certificate to operate a residential program for victims of domestic violence must be made to the Office in the manner prescribed in this Part and on forms furnished by the Office.

(c) Upon request, the Office will furnish application forms and a list of required supporting documentation necessary to complete an application for an operating certificate.

(d) Applicants for a certificate to operate a residential program for victims of domestic violence must submit all documentation required in section 452.4 of this Part within 90 days of the date of filing an application with the Office. Failure to comply with these requirements will be considered a withdrawal from the application process, unless the Office extends such time period.

(e) Written notice of any omissions or deficiencies in the application or supporting documentation will be given by the Office to the applicant.

(f) An applicant for a certificate to operate a residential program for victims of domestic violence or a residential program for victims of domestic violence may submit to the Office an alternative plan to satisfy any non-statutory requirement of this Part. The plan must include the regulatory requirement involved and how the alternative plan will satisfy the intended purpose of the requirement. The department must approve the alternative plan where the department determines that such plan satisfies the intent of the regulatory requirement.

(g) A review to determine the applicant's compliance with Office requirements will be conducted by the Office after the receipt of the application and all required supporting documentation.

(h) A notice of approval or denial of the application will be issued by the Office after the completion of the review and, if the application is approved, an operating certificate will be issued to the applicant.

(i) If an application is denied, the Office will give written notice of the denial to the applicant, informing the applicant of the reasons for the denial, and of the applicant's right to request a hearing before a hearing Officer designated by the Office in accordance with the procedures set forth in Part 343 of this Title.

(j) The applicant's request for a hearing to review the denial of an application for an operating certificate must be made within 60 days after the written notice of denial. The Office will respond to an applicant's request for a hearing within 90 days after the receipt of the request for a hearing.

452.4 Required documentation in support of an application to operate a residential program for victims of domestic violence.

The completed application to the Office must include the following:
(a) the name of the residential program;

(b) the type of residential program for victims of domestic violence which the applicant seeks to operate;

(c) with the exception of safe home networks, safe homes, domestic violence sponsoring agencies, and safe dwellings, evidence of inspection and approval from applicable local authorities and officials, regarding compliance with health, sanitation, fire safety and building code requirements;

(d) the name and address of the not-for-profit organization operating the residential program, and, where applicable, either:

   (1) a copy of the articles of association and proof of Federal tax exempt status; or

   (2) a copy of the certificate of incorporation and verification of filing with the Department of State for incorporation;

(e) satisfactory evidence of finances sufficient to operate properly and in accordance with this Part, including:

   (1) a projected annual budget showing anticipated operating expenses and income; and

   (2) a copy of the most recent financial report prepared by a certified public accountant or most recent State and Federal tax returns of the applicant organization. If an organization has been in existence for less than one year and if neither are available, a statement of the organization's assets and liabilities, signed by an Officer of the organization;

(f) a description of the residential program and services which must include the following:

   (1) a description of how the required emergency core services for the particular program will be delivered, the methods by which persons will gain access to the program, intake procedures for persons in need of temporary shelter, and rules regarding length of stay for persons receiving temporary shelter;

   (2) a description of community support and efforts to establish community linkages with police, family courts, local social services district, other domestic violence programs, local animal welfare organizations, and other community agencies;

   (3) a copy of the resident’s rights and responsibilities, and the program's responsibilities;

   (4) a plan for the safety and security of residents and a statement indicating the extent to which the site location is known to the general public;

   (5) a description of a disaster emergency plan which must include provision for obtaining emergency medical care;

   (6) a description of the type of meals provided or a description of food service arrangements when meals are not provided onsite;
with the exception of safe home networks and domestic violence sponsoring agencies, a description of the method and frequency of fire drills; and

any other information required by the Office to further the purposes of this Part;

g) a description of staffing which must include:

(1) copies of all policies showing compliance with the requirements of section 452.11 of this Part;

(2) a description of the pattern of supervision of staff by the director or other responsible person, schedule and content of training and use of training resources (such as other agencies, conferences, college courses); and

(3) a sample of all forms used by the program including admission forms, resident’s rights and responsibilities, and program responsibilities; and

(h) with the exception of safe home networks and domestic violence sponsoring agencies, a description of the proposed or actual facility site, including its location, construction characteristics, use of the building for purposes other than the provision of services to victims of domestic violence and a diagrammatic floor plan of the entire facility.

(1) The diagram must be labeled with the planned use of all program areas, and must indicate plumbing fixtures, such as toilets, sinks and bathtubs and/or showers and the means of egress.

(2) The diagram must also reflect the facility’s security plan.

(3) A facility may not expand its services or increase its capacity unless it has received prior written approval of the Office and has complied with all applicable Office regulations.

452.5 Operating certificates: general provisions, enforcement and hearings

(a) Issuance. An operating certificate will be issued to a residential program for victims of domestic violence only when it has been determined after a review of the completed application and supporting documentation submitted by the program, and an onsite inspection of the domestic violence shelter or domestic violence mixed occupancy shelter by the Office, has determined the program is in compliance with all applicable regulations.

(b) Duration. An operating certificate will be valid for up to three years from date of issuance and only for the premises specified and may be limited, suspended or revoked at any time for failure to comply with regulations of the Office or for just cause.

(c) General provisions.

(1) The certificate must be prominently displayed in the shelter, domestic violence program or mixed occupancy shelter, network office, or sponsoring agency office.
The certificate will specify the maximum number of residents who may be in residence at the residential program for victims of domestic violence at any one time, or the maximum number of safe homes or safe dwellings which may be approved. For domestic violence sponsoring agencies, the certificate will also specify the maximum number of residents for each safe dwelling at any one time.

There will be no fee for the issuance of an operating certificate.

Certificates are not transferable.

Enforcement actions. Any violation of applicable statutes or regulations may be a basis for OCFS to limit, suspend, revoke or terminate an operating certificate, or for just cause.

As outlined in section 452.8(f) of this subpart, the Office must provide a written report to the provider identifying any regulatory violations and a time frame for the correction. Failure on the part of the provider to complete corrective action within the timeframe specified or approved by the Office will constitute sufficient cause for the Office to commence enforcement action to limit, suspend or revoke an operating certificate.

The Office may limit an operating certificate to restrict any aspect of program operations until deficient conditions are corrected and the program is deemed to be in compliance with regulations. Limiting an operating certificate includes, but is not restricted to, actions such as the closing or reducing of program admissions, reducing the total number of persons who may receive services through the program or eliminating or modifying any aspect of the program or program services.

The Office may suspend an operating certificate for a period of time until the program can demonstrate that it has corrected the endangering conditions or deficiencies and is in compliance with the regulations. During the period of suspension, a program must not provide residential services to eligible individuals.

The Office may revoke an operating certificate for the remainder of its designated term based upon the presence of endangering conditions or significant deficiencies. In this situation, the residential program is deemed to be closed and is no longer authorized to provide residential services to eligible individuals.

Hearings.

Before an operating certificate is limited, suspended, or revoked, the provider or applicant for the operating certificate may request a hearing before the Office in accordance with the procedures established in Part 343 of this Title,

(i) The request for a hearing must be made in writing within 30 days of the receipt of written notice of the limitation, suspension or revocation.

(ii) The limitation, suspension or revocation will become final if the applicant or holder fails to request a hearing within the 30-day period.
(iii) The Office may require the program to post the revocation of licensure on the premises of the facility.

(2) Notwithstanding paragraph (1) of this subdivision, an operating certificate may be temporarily limited or suspended in its terms without a hearing upon a finding by the Office that health, safety or welfare of a resident is in imminent danger. In such circumstances, the Office will provide written notification to the residential program.

(i) The provider has 10 days from the date of the temporary limitation or suspension of the operating certificate to request a hearing from the Office. Such request must be made in writing.

(ii) Failure to make such a request will be prima facie evidence that the finding of imminent danger is valid, and the temporary suspension will continue in effect until the Office has determined the condition requiring such suspension is corrected or the operating certificate is permanently revoked or terminated.

(iii) If the provider requests a hearing, the temporary suspension will continue in effect until the Office has determined that the condition requiring such suspension is corrected, the operating certificate is permanently revoked or terminated, or a hearing decision orders the lifting of the suspension or limitation.

(3) A notice of hearing will be served in person or by certified mail addressed to the provider at the last address provided to the Office, at least 30 days prior to the date of the hearing. The notice will specify the time and place of the hearing, the proposed action and the charges which are the basis for the proposed actions. The charges will specify the statutes, rules and regulations, or other applicable requirements of law with which the provider failed to comply and will include a brief statement of the facts pertaining to such noncompliance.

(4) When an enforcement is commenced against a provider that operates multiple residential domestic violence facilities, the Office may assess the health and safety of the residents in the other domestic violence facilities operated by the provider and take appropriate action to protect the health and safety of the residents when warranted.

452.6 Renewal of the operating certificate.

(a) A provider of a residential program for victims of domestic violence must submit an application for renewal of the operating certificate to the Office at least 45 days prior to the expiration of said certificate. Such application must be made on the forms prescribed by the Office and, with the exception of safe homes and safe dwellings, must include a copy of the most recent local inspection of the facility as required by section 452.4(c) of this Part.

(b) Failure to submit an application for renewal of an operating certificate within the time limits established by subdivision (a) of this section may, at the discretion of the Office, constitute grounds for denial of any subsequent application for renewal.
In accordance with State Administrative Procedure Act (SAPA) Section 401, when a provider has submitted an application for renewal in a timely manner, the existing operating certificate will not expire until the application has been finally determined by the Office.

Renewal will be dependent upon current fiscal viability, demonstration of the continued ability of the provider to operate the residential program in compliance with regulations, and, for programs for which section 452.4 (c) of this Part applies, demonstration of satisfactory compliance with the State and local health, sanitation, fire safety and building code requirements, where applicable.

Following review of the renewal application and any required inspection report, the Office will determine whether the residential program is in compliance with Office regulations, and if a satisfactory recommendation is issued, the operating certificate will be renewed for a period up to, but no more than, three years.

If the Office decides to deny the application for renewal, the provider will be notified of the reasons for denial and the right to request a hearing. The Office may take additional enforcement action concurrent with the denial.

Any violation of applicable statutes or regulations may constitute the basis for denial or rejection of the renewal application.

Before a renewal application for an operating certificate is denied or rejected, the applicant for or provider of such operating certificate is entitled to a hearing before the Office.

The request for such hearing must be made in writing within 30 days of the receipt of written notice of the denial or rejection.

The denial or rejection will become final if the applicant or provider fails to request a hearing within the 30-day period.

452.7 Amendment of the operating certificate.

The provider must submit an application to amend an operating certificate in such manner and on such forms as prescribed by the Office prior to:

Any change in any information located on the operating certificate; or

any requested change to facility’s capacity as defined in 452.5(c)(2) of this Part;

The Office must be notified 30 days in advance of the closure of the program and such change will require the operator to surrender its operating certificate to the Office.

Failure to notify the Office of those changes listed in subdivisions (a) and (b) of this section will constitute grounds for the limiting, suspending or revoking of an operating certificate.
452.8 Supervision and inspection by the Office.

(a) Residential programs for victims of domestic violence are subject to the inspection and supervision of the Office. The purpose of such supervision and inspection is to ensure that such programs are in compliance with all applicable State and local laws and regulations, and to determine that the services provided are adequate, appropriate, and in accordance with the operating certificate.

(b) With the exception of safe home networks, which only must allow the Office access to safe homes under circumstances specified in section 454.11 (e) of this Title, residential programs for victims of domestic violence must allow the Office, as specified in subdivisions (c) and (d) of this section, access to any building or property owned, leased, rented, or directly controlled by the program and any books, papers, employees, and residents of the program in order to determine, and if necessary, effect compliance with applicable laws and regulations and with the provider’s application and operating certificate. Failure to allow such access constitutes grounds for the limitation, suspension, or revocation of an operating certificate and any individual that intentionally refuses to allow such access to the Office shall be guilty of a misdemeanor pursuant to section 460-c (5) of the Social Services Law.

(c) Inspection means the process of inquiry and investigation and includes periodic announced or unannounced onsite investigations, as set forth in subdivision (d) of this section, private interviews with residents, review and investigation of books and records, compilation of written, photographic or other physical evidence and such collateral contact as the Office deems necessary to determine compliance with applicable laws or regulations. A resident will be interviewed only when the resident has consented to a private interview.

   (1) Access to personally identifying information contained in books and records is permitted only upon informed, written, and reasonably time-limited consent from the resident. Reasonable modifications must be made for those who may be unable, due to disability or other functional limitation, to provide consent in writing.

   (2) Nothing in this section shall prohibit access to books and records containing personally identifying information when a report of child abuse or maltreatment has been made.

(d) The Office may conduct unannounced inspections:

   (1) to the maximum extent possible, upon the receipt of any complaint involving a residential program for victims of domestic violence which is related to the operation of the program;

   (2) in relation to the initial application or a renewal of an operating certificate of any residential program for victims of domestic violence; or

   (3) as follow-up to determine whether corrective action has been taken on deficiencies noted during previous inspections.

   (4) as follow-up to a report of the occurrence of any reportable incident to the Office
including and not limited to: death of resident while in shelter, fire, gas leak, carbon monoxide leak, water main break and/or structural damage to the facility.

(e) To the extent possible, inspections, other than those specified in subdivision (d) of this section, will be conducted upon at least 24-hour notice to the provider of the residential program for victims of domestic violence.

(f) A written report of an inspection will be sent to the provider and will include:

(1) identification of any areas which are in violation of requirements of this Part;

(2) the steps which must be taken to correct any violations; and

(3) the timetable for correction.

Reports of inspection may require immediate corrective action by the provider to protect the health, safety and welfare of residents.

(g) Upon receipt of the report of inspection, the provider must:

(1) correct the violations in accordance with the timetable for correction; or

(2) in the event that correction cannot be completed within the time frame set forth in the report, obtain immediate written approval from the Office to modify the corrective action plan. A request for modification may be denied if the Office has cited conditions which could endanger the health, safety, and welfare of residents. In such cases, admissions to the program will be limited or prohibited until corrective action is implemented.

(h) Failure on the part of the provider to complete corrective action within the time-table specified or approved by the Office will constitute sufficient cause for the Office to limit, suspend or revoke an operating certificate.

452.9 General operational standards.

(a) Admission standards.

(1) With the exception of those persons described in paragraph (2) of this subdivision and to the extent space is available, residential programs for victims of domestic violence must provide emergency services and temporary shelter to any victim of domestic violence, as defined in section 452.2(s) of this Part. Residential programs must provide appropriate available services for all victims of domestic violence, regardless of race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, marital status, or disability.

(2) Programs may not accept or retain any person who:

(i) is likely to cause danger to himself/herself or others or to substantially interfere with the health, safety, or provision of services to other residents;
(ii) is in need of a level of medical, mental health, nursing care or other assistance that cannot be rendered safely and effectively by the particular program, or that cannot be reasonably provided with a reasonable accommodation as defined in Part 452 of this Title or through the assistance of other community resources;

(iii) has a generalized systemic communicable disease, as identified by the New York State Department of Health or a local health department, or a readily communicable local infection which could be easily transmitted under normal shelter conditions to other residents and cannot be properly isolated.

(iv) refuses to agree, accept, or adhere to the rights and responsibilities as specified in paragraph (6) of this section.

(3) Prior to the admission of a person to a residential program for victims of domestic violence, a face-to-face interview may be conducted with the potential resident to determine whether such person is a victim of domestic violence as defined in section 452.2(s) of this Part, whether such person fits any of the criteria described in paragraph (2) of this subdivision, and whether the individual program can appropriately meet such person's physical and personal needs. Persons who do not meet admission criteria must be referred to appropriate community resources.

(4) Service animals and therapy dogs.

(i) Service animals and therapy dogs must be allowed to accompany domestic violence victims to a residential program for victims of domestic violence provided that the service animal does not impose an undue burden on the residential program for victims of domestic violence. Service animals and therapy dogs must be under control of the domestic violence victim. Care and supervision of service animals and therapy dogs are the responsibility of the domestic violence victim, including toileting, feeding, grooming and veterinary care.

(a) An undue burden may include situations where:

(1) the service animal or therapy dog poses a direct threat to the health or safety of others, has a history of aggressive behavior, or is not under the control of the domestic violence victim. Allergies or a fear of animals do not constitute a direct threat to the health or safety of others.

(2) accommodating the accompaniment of the service animal or therapy dog would create significant difficulty or expense to the residential program for victims of domestic violence, taking into consideration the overall size and budget of the residential program for victims of domestic violence.
violence.

(3) Reasonable accommodations may include changes to the physical environment, policies/procedures or practices which permit a domestic violence victim or his/her child with a disability to be able to receive emergency services and temporary shelter in a residential program for victims of domestic violence if such changes are readily achievable. Readily achievable means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include:

(i) The nature and cost of the change needed; and

(ii) The overall financial resources of the residential program for victims of domestic violence; the number of persons served at such facility; the effect on expenses and resources or the impact otherwise of such action upon the operation of the facility; the number, type and location of its facilities.

(b) If the residential program for victims of domestic violence determines that accompaniment by the service animal or therapy dog would constitute an undue burden on the residential program, the program must make reasonable efforts to facilitate placement of the service animal or therapy dog at an off-site animal care facility, or to find another suitable placement for the victim of domestic violence and their service animal or therapy dog.

(ii) Therapy dogs shall be allowed within the residential program for victims of domestic violence for the purpose of providing therapeutic services.

(iii) Residential programs for victims of domestic violence may have policies that permit residents to have emotional support / comfort animals and/or pets accompany residents.

(5) Where an adult or child resident appears to be physically injured or seriously ill and/or makes statements indicating the possibility of serious physical injury or illness such resident must be offered a referral for a health examination conducted by an appropriate medical or mental health professional within 48 hours of admission to a residential program for victims of domestic violence.

(6) Within the first working day following admission to a residential program for victims of domestic violence, the program must seek to obtain the informed consent of each adult resident regarding the rights, responsibilities and rules of the program governing day-to-day life and activities including the maximum
length of stay in such program and the conditions for discharge of residents from the program.

(7) Additional requirements for rights and responsibilities utilized by a safe home network and a domestic violence sponsoring agency are set forth in sections 454.6 and, 455.5 of this Title, respectively.

(8) Within the first working day following admission to a residential program for victims of domestic violence, the program must provide the resident with a notice of the following rights and responsibilities:

(i) Resident’s Rights

(a) the right of the resident to receive confidential services and to reside in a safe and secure environment;

(b) the right to have or refuse private written, verbal or electronic communications, including the right to leave the facility, safe home or safe dwelling to meet with legal representatives and legal counsel. Any limitations on the use of the facility, safe home or safe dwelling for such meetings or communications including prior notice, hours of access, or access to private areas or any outright prohibition must be set forth in the resident rights and responsibilities;

(c) the right to leave and return to the facility, safe home or safe dwelling at reasonable hours in accordance with the written rights and responsibilities of the program;

(d) the right to confidential treatment of personal, social, financial, and medical records as well as any other information which may result in the disclosure of the presence of the resident at the program, except where contrary to any law or regulation;

(e) the right to receive courteous, fair, respectful and culturally competent services;

(f) the right to present grievances on one's own behalf, or on behalf of other residents, to the program operator or operator's designee, the local social services district and/or the Office without fear of reprisal and the procedures to voice such grievances;

(g) the right to manage one's own financial affairs;

(h) the right to be free from restraint or confinement;

(i) the right to exercise one's civil rights, including the right to religious liberty;

(j) a victim of domestic violence with a disability has the right to be accompanied by a service animal. A person who is a handler of a therapy dog has the right to be accompanied by their therapy dog. If it is unclear if the animal is a service animal, the program may ask if it is
a service animal required because of a disability. The program may also ask what work or task has the animal been trained to perform. A person with a service animal is not required to provide proof of their disability or any other proof that the animal is a service animal.

(k) reasonable efforts must be made to facilitate placement of the service animal or therapy dog of the handler resident at an off-site animal facility in the event the animal poses a direct threat to the health or safety of others.

(l) the right to be informed and receive a copy of the program’s policies that prohibit discrimination or harassment of any person in the residential program because of the person’s race, creed, color, disability, national origin, sexual orientation, military status, actual or perceived sex, marital status, family status, gender, gender identity or expression.

(ii) Resident Responsibilities

(a) maintaining the cleanliness of their own sleeping and living areas, including bathroom and cooking areas, if any, as well as laundering and changing linens and towels regularly;

(b) using communal areas respectfully;

(c) notifying facility staff of any illnesses of each member of the family;

(d) refraining from engaging in acts which endanger the health and safety of oneself or others, or which substantially interfere with the orderly operation of the facility.

(iii) Program Responsibilities

(a) the requirement for program employees to report all suspected cases of child abuse and maltreatment to the State central register of child abuse and maltreatment, as specified in subdivision (d) of this section;

(b) the availability of and assistance in securing legal support and advocacy;

(c) to inform residents of the types of services available through the program and the frequency with which such services are offered, including whether storage facilities to secure possessions are available;

(d) the right of programs to discharge residents who are disruptive of the program’s operation or who are likely to cause danger to himself/herself or others or to substantially interfere with the health, safety, or provision of services to other residents, household members, and/or staff;

(e) in accordance with Social Services Law § 460 et. seq., the requirement
for programs to allow the Office access to the grounds, buildings, books, papers, employees, and residents of the program for the purpose of supervision and inspection;

(b) Records and reports.

(1) Programs must maintain individual case records, by individual resident or by adult resident and related family member, which shall reflect that they have asked for the information below, provided, however, that nothing shall require a resident to answer any information as a condition to receive services:

(i) the resident's prior home address and listing of family members receiving residential services from the program;

(ii) identification of person or persons to be contacted in case of emergency;

(iii) referrals for any medical or mental health services of resident(s) pursuant to paragraph (a) (4) of this section;

(iv) information on the status of any court proceeding to which the resident is a party or a complainant if such proceedings are directly related to the reasons the resident is in need of a residential program for victims of domestic violence;

(v) inquire about any special medical conditions or medications prescribed for any resident family members, the prescribed regimen to be followed, and the names and telephone numbers of medical doctors to contact should an emergency arise concerning these conditions;

(vi) the resident's description of the situation which caused the resident to enter the program as a victim of domestic violence;

(vii) entries indicating the dates and the emergency core services provided pursuant to section 452.12 of this Part; and

(viii) where appropriate, documentation that a transition plan has been discussed with the resident, which includes, discussion on community services and programs which may be helpful to the individual resident upon departure and documentation of any referrals to other residential programs for victims of domestic violence.

(2) The program must maintain at the program office or the program's principal place of business, personnel records as outlined in 452.11(e) (4) and (5).

(3) The program must maintain at the program office or the program's principal place of business payroll records and appropriate financial records and reports accounting for the revenues and expenditures and the financial status of the program. These records must be kept in accordance with generally accepted
accounting principles.

(4) The program must maintain at the program office a daily roster or other mechanism to record the number of residents in the program at all times.

(5) The program must maintain at the program office records of reportable incidents occurring at the domestic violence shelter, domestic violence program, safe home or safe dwelling, including a description of each incident and steps taken to control, manage or prevent the recurrence of such an incident.

(i) Reportable incident means an incident that, because of its severity or the sensitivity of the situation, may result in, or has the reasonably foreseeable potential to result in, harm to the health, safety or welfare of any resident and shall include but shall not be limited to: death of resident while in shelter, fire, gas leak, carbon monoxide, water main break, structural damage to the facility, etc. to the Office within 24 hours in a form and manner prescribed by the Office;

(6) Operational records must be maintained for a period of six years.

(7) The program, with the exception of safe homes, must have written disaster and emergency plans.

(8) Individual case records must be retained by the program upon change of staff or ownership, and must be retained six years after the resident leaves the program. If the resident returns for residential services as a result of a new domestic violence incident, the record retention period starts over.

(9) Any records that have exceeded the retention time frame must be destroyed in a manner as to maintain confidentiality of the records.

(c) Length of stay.

(1) Maximum length of stay will be determined in accordance with section 408.6 of the Part. Potential residents of each program must be informed of the program’s length of stay at their initial admission interview and subsequently in writing, and all counseling of the residents must recognize the need to secure safe and appropriate alternative housing.

(2) A former resident of a residential program for victims of domestic violence may reenter a residential program for victims of domestic violence if such person is a victim of domestic violence as defined in section 452.2(s) of this Part as a result of a new domestic violence incident occurring subsequent to the previous stay at a residential program for victims of domestic violence. For purposes of calculating the length of stay of such residents, the day of readmission will be counted as day one.

(d) Reporting of child abuse.

(1) Employees of residential programs for victims of domestic violence are considered to be employees of a publicly funded emergency shelter for families
with children, and, in accordance with the provisions of sections 413 and 415 of the Social Services Law, must report any incidents of suspected child abuse or maltreatment to the Statewide Central Register of Child Abuse and Maltreatment (SCR), or cause such a report to be made, when such employee has reasonable cause to suspect that a child, parent or other person legally responsible for a child comes before them in their professional or official capacity and provides information that gives the employee a reasonable basis to suspect that a child is being abused or maltreated. This must be done in the following manner:

(i) Residential programs for victims of domestic violence must make an immediate report to the SCR by telephone, followed by a written report within 48 hours, in the form and manner prescribed by the Office of Children and Family Services (Office), to the child protective service of the social services district in the county in which the child resided at the time of the suspected incident.

(ii) After making the initial report, the reporting employee must immediately notify the director of the program or a designee that the report was made.

(e) Incorporated not-for-profit organization; general terms and conditions.

(1) Governing board

(i) The legally constituted board of directors or other governing board of an agency shall manage the affairs of such agency in accordance with applicable provisions of law, rules of the Office, the agency's certificate of incorporation, any amendments thereto, and duly adopted bylaws. In the event an agency operates more than one residential program for victims of domestic violence, the governing board may appoint a separate advisory body for each residential program for victims of domestic violence operated by such agency.

(ii) So that the board of directors or other governing board of an agency may properly oversee the affairs of the agency, such board must include a member or members with knowledge of, or experience in, the types of programs operated by the agency. Such board should also include a member or members with knowledge of financial matters.

(iii)

(a) No member of the board of directors or other governing board of an agency or any of its advisory bodies may engage, directly or indirectly, in any business or activity that is in substantial conflict with the proper discharge of his or her duties as a member of such governing board or advisory body.

(b) The board of directors or other governing board must adopt a conflict of interest policy prohibiting board members from engaging in transactions involving the agency from which the
board members could personally benefit; from which family members or friends of the board members could personally benefit; or that create the appearance that the board members could personally benefit or that family members or friends of the board members could personally benefit.

(iv) The governing board must:

(a) appoint a chief executive officer, by whatever title designated, who shall be responsible to the governing board for the proper administration of the agency;

(b) make or cause to be made, receive and preserve such records as may be required;

(c) meet as often as may be necessary, but no less than at least four times a year, to oversee and provide for the proper orientation of the agency and to oversee and provide for the proper delivery of services to victims of domestic violence;

(d) maintain and keep, at the administrative office of the agency, minutes of its meetings;

(e) make periodic reviews at least once a year of the agency’s written policies on intake for all its programs, review its services and programs to determine whether they meet the needs of the victims of domestic violence or would meet the needs of victims of domestic violence awaiting such care, and record such reviews in the minutes; and

(f) develop and maintain a program of orientation and training for all new members of such board.

(v) The bylaws of an agency shall provide for the appointment of such standing committees may be appropriate and prescribe their functions and responsibilities.

(vi) The governing board or committee thereof shall be permitted and encouraged to visit each program and facility operated by such agency, at least annually, in a manner which affords confidentiality to such program’s residents, to review the operation of such programs and facilities as well as the quality of services provided to victims of domestic violence.

(2) Finances.

(i) The governing board of an agency must make provision for:

(a) adequate financial resources for the operation of such agency’s programs;

(b) adequate supervision of such agency’s property, both real and personal;
(c) a separate annual budget for each program operated by such agency with an appropriate allocation for administrative and centralized costs.

(ii) Each agency shall submit financial forms and reports to the Office in accordance to Part 408.7(a) of this Title.

(3) Chief executive officer.

(i) The chief executive officer shall direct, evaluate and coordinate all aspects of an agency’s programs. This officer shall be responsible for the daily administration of the agency in accordance with the rules of the Office and all other applicable requirements of law and of the policies of the governing board; for supervision of the services provided to victims of domestic violence and their children; for admissions and discharges; for continuing analysis and improvement of programs in light of the needs of victims of domestic violence being service; for staff development and training; for selection and dismissal of all employees, volunteers, consultants, and contractors; for preparing the annual budget; for preparation of all required reports; for exploring and initiating new programs and services when appropriate; and for the coordination with other programs in the community.

(ii) This chief executive officer shall be a college graduate, with appropriate training and experience in the human services field.

452.10 Confidentiality.

(a) Access to information. All records, books, reports and papers established and maintained pursuant to this Part and Parts 453, 454 and 455 of this Title relating to the operation of residential programs for victims of domestic violence and to the residents of such programs are confidential. Access to such information will be permitted only as follows:

(1) the Office will have full access to all books, records, reports and papers relating to the operation of residential programs for victims of domestic violence and to the residents of such programs, including access to any client personally identifiable information for purposes of inspection and supervision provided such access meets the criteria as described in section 452.8(c)(1) of this Part;

(2) any person or entity will have access to information as permitted by an order of a court of competent jurisdiction;

(3) a residential program for victims of domestic violence will have access to information maintained in a resident's case record by another residential program for victims of domestic violence, excluding any information identifying the actual street address where the resident is sheltered, in those situations where a resident continues to be in need of a residential program for victims of domestic violence beyond the current program's length of stay policy and the resident has provided consent for their information to be shared for the purpose of a referral to
another available residential program for victims of domestic violence;

(4) a local social services district will have access:

(i) to fiscal records and non-identifiable personal information which is deemed necessary by the Office to establish an approved per diem rate pursuant to section 131-(2) of the Social Services Law. This will not include access to information identifying the actual street address where residents are being sheltered or any identifying information on safe home providers;

(ii) (a) to resident case records, including any resident identifiable information, for purposes of investigating a report of suspected child abuse and maltreatment pursuant to title 6 of article 6 of the Social Services Law;

(b) to resident case records, excluding information identifying the actual street address where residents are being sheltered, only when a resident has voluntarily given written authorization for the release of such information. A local social services district cannot require that a resident sign such authorization as a condition for receiving public assistance or services; and

(c) to those elements of the resident case record as listed below for purposes of reimbursing a residential program for victims of domestic violence the approved per diem rate:

(1) the name of the resident for whom an approved per diem rate will be paid;

(2) the name of any minor children for whom an approved per diem rate will be paid;

(3) the business address of the residential program for victims of domestic violence;

(4) the date the resident entered the program;

(5) the date of the resident's departure from the program; and

(6) other relevant information which identifies a resident's service and safety needs;

(5) a resident as defined in section 452.2 of this Part will have access to all information maintained in his/her resident case record maintained in accordance with section 452.9 (b)(1) of this Part;

(6) an employee or official of a Federal, State or local agency will have access to records relating to the financial operation of a residential program for victims of domestic violence other than to a resident's case record and to records
identifying the actual shelter site for purposes of conducting a fiscal audit.

(7) a person engaged in a bona fide research purpose will have access to information consistent with applicable law and regulations; provided, however, that in no case will such person have access to personally identifying information regarding persons receiving services from the program.

(b) Disclosure.

(1) An agency or person given access to any books, records, reports and papers relating to the operation of a residential program for victims of domestic violence pursuant to subdivision (a) of this section or to the residents of such program must not divulge or make public such information except:

(i) where authorized by a court of competent jurisdiction;

(ii) where expressly authorized by a resident of a residential program for victims of domestic violence;

(iii) to a person or entity otherwise authorized to have access pursuant to subdivision (a) of this section for purposes directly related to the administration of a residential program for victims of domestic violence;

(iv) a person engaged in bona fide research may disclose the findings of such research to the public; provided however, that in no case may information personally identifying any person receiving services from the residential program and the location of the residential program for victims of domestic violence be disclosed; or

(v) where otherwise authorized by statute.

(2) Employees of the New York State Office of Children and Family Services and a local social services district given access to information pursuant to this section who re-disclose information in a manner which is not consistent with the provision of this Part are subject to disciplinary action in accordance with appropriate collective bargaining agreements and applicable law and regulation.

(c) Confidentiality of facility address.

(1) Each program must maintain a business mailing address separate and distinct from the actual address where residents are sheltered. When releasing the address of any resident, programs must release only the business address of the program and not the actual address where the resident is being sheltered. For the purposes of applying for and receiving public assistance, medical assistance and/or community services, residents may use the business mailing address of the program; however, they may not use the actual street address of the shelter.

(2) All information related to the general location or specific street address of a structure anticipated to house or housing a residential program for victims of domestic violence contained in any application or other document submitted to a state or local agency or any instrumentality thereof shall be kept confidential and
not subject to release or disclosure in whole or in part. A state or local agency or any instrumentality thereof shall deny any request for such information made pursuant to Article 6 of the Public Officers Law in accordance with Section 87(2)(f) of such law.

(3) A state or local agency or any instrumentality thereof and its employees may disclose the general location or specific street address of a structure anticipated to house or housing a residential program for victims of domestic violence only where authorized by a Court of competent jurisdiction or otherwise expressly permitted by statute or regulation.

(d) Local district access to residents.

(1) A local social services district will have access to a resident of a residential program for victims of domestic violence at the facility or safe home only under the following circumstances:

(i) where authorized by an order of a court of competent jurisdiction;

(ii) notwithstanding the requirements of this Title, for purposes of investigating a report of suspected child abuse or maltreatment in which the subject of a report is a resident of a residential program for victims of domestic violence or a safe home provider. Nothing in this subparagraph prevents a local child protective service from interviewing residents of a residential program for victims of domestic violence at a location other than the facility or safe home; and

(iii) where authorized by the policies of a residential program for victims of domestic violence and with the concurrence of the resident.

(2) A local social services district will have access to the residents of a residential program for victims of domestic violence, where the program policies do not permit access on site, at a location other than the confidential location of the actual facility site or safe home when such access is necessary in order for the local social services district to determine a resident's length of stay at a residential program for victims of domestic violence, to assess the service and safety needs of the resident and/or to assist a resident in finding appropriate alternative housing. Notwithstanding the requirements of this section, nothing in this subdivision prevents a local social services district from having access to a facility site where such access is permitted by the policies of a residential program for victims of domestic violence.

452.11 – Personnel

(a) Review of applicants/General

(1) Each program must review and evaluate the background of all applicants for staff positions, whether employees or volunteers. All applicants whose backgrounds must be checked are required to provide the following:
(i) a statement or summary of the applicant’s employment history, including, but not limited to, any domestic violence and/or human services experience;

(ii) a statement or summary of the applicant’s educational background, including, but not limited to, any degrees, certifications and/or licenses.

(2) In addition, for prospective employees, volunteers and any individual who is to be hired as a consultant with the potential for regular and substantial contact with children who are in residence at the program, the program must obtain:

(i) the information necessary to determine whether the applicant is listed on the register of substantiated category one cases of abuse or neglect maintained by the Justice Center for the Protection of Persons with Special Needs (Justice Center), pursuant to section 495 of the Social Services Law, as required by section 452.11(b) of this Subpart;

(ii) the information necessary to determine whether the applicant is the subject of an indicated report of child abuse or maltreatment, as required by section 452.11(c) of this Subpart;

(iii) a sworn statement by the applicant indicating whether, to the best of the applicant’s knowledge, such applicant has ever been convicted of a misdemeanor or felony in New York State or any other jurisdiction; and

(iv) written informed consent from the applicant, on a form acceptable to the Division of Criminal Justice Services (DCJS), to perform a criminal history check, along with the information necessary for the program to conduct such a check.

(3) For prospective employees of individuals, corporations, partnerships or associations, which provide goods or services to the program and who will have the potential for regular and substantial contact with children who are in residence at the program, the program must obtain:

(i) the information necessary to determine whether the applicant is listed on the register of substantiated category one cases of abuse or neglect maintained by the Justice Center, pursuant to section 495 of the Social Services Law, as required by section 452.11(b) of this Subpart; and

(ii) the information necessary to determine whether the applicant is the subject of an indicated report of child abuse or maltreatment as required by section 452.11(c) of this Subpart.

(4) The program may inquire whether any current employee who has regular and substantial contact with children who are in residence at the program is the subject of an indicated report of child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and Maltreatment (SCR). An inquiry to the SCR regarding any current employee may be made only once in any six-month period.
(5) For purposes of applying the obligations created under section 495 of the Social Services Law to residential programs for victims of domestic violence, the term “regular and substantial contact with a service recipient” means the “potential for regular and substantial contact with children who are in residence at the program.”

(b) Review of applicants/Staff Exclusion List

(1) Programs are required to check prospective employees, volunteers, consultants, and contractors with the Register of Substantiated Category One Cases of Abuse or Neglect (staff exclusion list or SEL) maintained by the Justice Center pursuant to section 495 of the Social Services Law, before determining whether to hire or otherwise allow any person to have regular and substantial contact with children who are in residence at the program.

(i) If an applicant is listed on the SEL, the program shall determine whether to hire or allow such a person to have regular or substantial contact with children who are in residence at the program in accordance with the provisions of subdivision (5) of section 424-a of the Social Services Law and paragraph (d) below. Such a determination may only be made after receipt of the SCR check and criminal history record check.

(ii) If the result of the inquiry under section 495 of the Social Services Law leads to a decision to deny the application, the program shall not be required to conduct an SCR check under section 424-a of the Social Services Law.

(iii) If an applicant is not listed on the SEL, an SCR check must be completed in accordance with section 424-a of the Social Services Law and this section.

(c) Review of applicants/SCR Check

(1) The program must inquire of the Office whether any person who is actively being considered as an employee, volunteer, consultant or contractor and will have the potential for regular and substantial contact with children who are in residence at the program is the subject of an indicated report of child abuse or maltreatment on file with the SCR.

(i) Prior to making an inquiry pursuant to this paragraph, the program must notify, in the form prescribed by the Office, each person who will be the subject of an inquiry that the inquiry will be made to determine whether such person is the subject of an indicated report of child abuse or maltreatment on file with the SCR.

(ii) Applicant’s contact with children pending SCR results.
(1) Except as set forth in clause (2) of this subparagraph, a program may not permit a prospective employee, volunteer, consultant or contractor to have contact with children in residence at the program prior to obtaining the result of the SCR check.

(2) A prospective employee, volunteer, consultant or contractor may have contact with children in residence at the facility prior to the receipt by the program of the result of the SCR check only where such person is in the line of sight of existing staff of the program. Such person must be in the line of sight of an existing staff member for whom:

(a) the result of an inquiry required by section 424-a of the Social Services Law has been received by the program and the program hired the existing staff member with knowledge of the result of the inquiry; or

(b) an inquiry was not made because such staff member was hired before July 19, 2017.

(iii) Fee for SCR Check.

(1) The Office shall charge a fee when it conducts a search of its records within the SCR to determine whether such applicant is the subject of an indicated report.

(2) The required fee must either accompany the inquiry form submitted to the Office or, for an inquiry submitted by a social services district, the district may elect to have the fee subtracted from its claims for reimbursement submitted pursuant to section 601.1 of this Title.

(3) Fees must be paid to the "New York State Office of Children and Family Services." For social services districts electing to have the fees subtracted from their claims for reimbursement submitted pursuant to section 601.1 of this Title, the fees will be subtracted quarterly to match the number of inquiries made.

(d) If an applicant, employee, consultant or volunteer about whom the program has made an inquiry is found to be the subject of an indicated report of child abuse or maltreatment or is listed on the SEL, the program must determine, on the basis of information it has available and in accordance with guidelines developed and disseminated by the Office, whether to hire, retain or use the person as an employee, volunteer, consultant or permit the person providing goods or services to have access to children who are in residence at the program. Whenever such person is hired, retained, used or given access to children, the program must maintain a written record, as part of the application file or
employment or other personnel record of such person, of the specific reason(s) why such person was determined to be appropriate and acceptable as an employee, volunteer, consultant or provider of goods and services with access to children being cared for by the program.

(e) Criminal history record check

(1) Every residential program for victims of domestic violence is required by Social Services Law § 460-h to obtain criminal history background checks for prospective employees, assistants, volunteers and consultants who will have the potential for regular and substantial contact with children in residence at the program through DCJS, in accordance with any applicable laws, regulations, policies and procedures. The individual who is subject to the criminal history background check must be informed, in writing, that the program is required to request a check of his or her criminal history information and assess the results of the check in accordance with 460-h of the Social Services Law. The program must identify an authorized person who is designated by the program to request, receive and check criminal history information in accordance with this Part.

(i) Upon receipt of complete information from the residential program for victims of domestic violence, including fingerprints and applicable fees, in the form and manner prescribed by DCJS, DCJS shall provide the criminal history information to an authorized person for any person applying to be an employee, assistant, volunteer or consultant who will have the potential for regular and substantial contact with children in residence at the program. This information shall only be retained during the duration of the application process. Thereafter, it must be destroyed in accordance with guidance from DCJS.

(ii) If an applicant has been convicted of a crime, the program must make a written safety assessment, in accordance with paragraph (2) of this subdivision and guidelines developed and disseminated by the Office, to determine whether to hire or use the person as an employee, volunteer or consultant. If the program determines it will hire or use the person, the program must maintain a written record, as part of the application file or employment or other personnel record of such person, of the reason(s) why such person was determined to be appropriate and acceptable as an employee volunteer or consultant.

(iii) Only the authorized person or his or her designee and the relevant person applying to be an employee, volunteer or consultant shall have access to the New York State criminal history information received by a program. Criminal history information may be disclosed by the authorized person to other individuals who are directly participating in any decision regarding the employee, volunteer or consultant’s application.
(iv) The authorized person and any other individual to whom such criminal history is disclosed shall keep this information strictly confidential, in accordance with the requirements of DCJS and any applicable laws, regulations, policies and procedures.

(v) Any party who willfully permits the disclosure of any confidential criminal history information obtained from a criminal history information check pursuant to this section to parties not authorized to receive same shall be guilty of a misdemeanor.

(2) In accordance with Article 23-A of the Corrections Law and subdivisions (15) and (16) of section 296 of the Executive Law, a written safety assessment performed in accordance with this section shall include, but not be limited to, the following factors:

(i) The public policy of the state to encourage the licensure and employment of persons previously convicted of one or more criminal offenses.

(ii) The specific duties and responsibilities of the employment sought by the applicant;

(iii) The bearing, if any, the criminal offense will have on the fitness or ability to perform one or more such duties or responsibilities;

(iv) The time which has elapsed since the occurrence of the criminal offense or offenses;

(v) The age of the person at the time of the occurrence of the criminal conviction or charge;

(vi) The seriousness of the offense or offenses;

(vii) Any information provided by the applicant or produced on his/her behalf regarding rehabilitation or good conduct; and

(viii) The legitimate interest in protecting property and the safety and welfare of children.

(3) Prior to making a determination to deny an employment or volunteer application or the use of an assistant or consultant, the program shall afford the applicant an opportunity to explain, in writing, why the application should not be denied, within 15 calendar days from the date the notification was mailed. The prospective employee, volunteer, assistant or consultant may request an extension of up to 15 days. The opportunity for an explanation shall be sent non-electronically, in a manner of mailing that can verify the date of mailing and shall include a copy of the subject individual’s criminal history information, a copy of Article 23-A of the
Correction Law, and information about the individual's right to seek correction of any incorrect information contained in the criminal history and the procedure for same.

(4) Upon receipt of a criminal history record, the program may request, and is entitled to receive, in accordance to subdivision six of section 460-h of Social Services Law, information pertaining to any crime contained in such criminal history record from any state or local law enforcement program, district attorney, parole officer, probation officer, or court for the purposes of determining whether any ground relating to such criminal conviction or pending criminal charge exists for denying an application for employment or volunteer opportunity or the use of a consultant. Where the criminal history record reveals a pending charge for any felony, the program shall hold the application in abeyance until the charge is finally resolved.

(f) Personnel policies and practices

(1) The term “staff,” as used in this section, includes both compensated employees and volunteers of the residential program for victims of domestic violence.

(2) Each program must provide a sufficient number of competent staff necessary to supervise, operate and maintain the premises in a safe and sanitary condition, and deliver program services to residents. There must be an employee responsible for supervising any volunteers.

(3) Programs must develop a plan to recruit staff who are representative of the cultural values and ethnic composition of the community being served. This includes the recruitment of bilingual staff when the program is in an area serving a significant non-English speaking population. Bilingual staff must speak the language of the community being served.

(4) There must be written job descriptions developed for each staff category. Each job description must include the title of the job, a statement of duties and responsibilities, skills needed and any special physical requirements of the job. The description must additionally specify the educational and experiential qualifications required of any applicant for the job. All staff persons must possess the necessary skills and training required for the job.

(5) There must be written personnel policies which include a nondiscrimination clause and which describe the terms and conditions of employment including hours of work, salary, vacation and sick leave, benefits, overtime policy, and any requirements regarding attendance at educational and training programs.

(6) Complete records must be maintained. Records must be current, accurate and available to the Office. Records must include the following information regarding each paid employee:

   (i) name, age, social security number, current home address, telephone number, and person to contact in an emergency;
(ii) names and addresses of educational institutions attended, dates of graduation, degrees or certificates conferred and information regarding any training received which will be used as a substitute for education and/or work experience with respect to the hiring of such employee;

(iii) all professional experience and previous employment, with name and location of employer, dates of employment and reasons for terminating employment;

(iv) information relating to the SCR and SEL checks required by this section;

(v) payroll and time records; and

(vi) where relevant, New York or other state licensure or registration number, year of original issuance and expiration date.

(7) Complete records must be maintained for volunteers. Such records must be current, accurate and available to the department. Records must include the following:

(i) the volunteer’s name, age, social security number, address, telephone number and person to contact in an emergency;

(ii) the volunteer’s applicable skills, experience and job qualifications;

(iii) the volunteer’s work responsibilities and scheduled work hours;

(iv) the name of the volunteer’s supervisor and records of supervisory conferences;

(v) information relating to the SCR and SEL checks required by this section; and

(vi) any relevant New York or other state licensure or registration number, year of original issuance and expiration date.

(8) Recordkeeping regarding Criminal History checks.

(i) Programs must retain a list of names of all persons for whom a request for a criminal history information check was submitted to DCJS, identifying whether the person was applying for an employment, consultant, assistant or volunteer position;

(ii) For each such name identified, except for withdrawing persons, a copy of his or her signed informed consent form required pursuant to subdivision 452.11(a) of this Part, and any fingerprints and criminal history information, where authorized by DCJS, and determination of the program regarding the person applying for an employment, consultant, assistant or volunteer position; and
(iii) A record identifying whether such individual was hired, contracted with or permitted to engage in volunteer services, the position such individual holds, and any limitations placed on such employment or service.

(iv) Such records shall be maintained, where authorized, in a manner that ensures the security of the information contained therein. Nothing herein shall restrict the ability of the Office to monitor compliance with this Part.

(v) Each program must maintain information necessary to demonstrate compliance with this Part for at least six years after the person ceases to be an employee, volunteer or consultant in a position that involves regular and substantial contact with children, unless otherwise directed by the Office.

(9) If directed by the Office or DCJS, a program shall destroy the criminal history information and/or any other information related to criminal background checks in accordance with such direction.

(10) Destruction of criminal history information and program determinations shall be performed in a manner that ensures the confidentiality of the information.

(11) If a subject withdraws from the application process, without prejudice, at any time regardless of whether he or she or the program has reviewed his or her criminal history information, upon such withdrawal from the application process, any fingerprints and criminal history information received by the program shall be returned to the withdrawing applicant.

(12) Each program shall have policies and procedures designed to implement the provisions of this Part.

(13) Staff members must be qualified by training and experience to carry out their respective functions in the administration, operation and maintenance of the residential program for victims of domestic violence.

(i) Staff and volunteers must be mature, of good character and possess suitable qualifications.

(ii) No individual may report to the program to work or volunteer under the influence of alcohol, narcotics or other illegal drugs.

(iii) No individual may report to the program to work or volunteer while in possession of alcohol and/or illegal drugs.

(v) When staff contract a communicable disease, as defined in section 452.9(a)(2)(iii) of this Title, which can easily be transmitted to others under normal communal living conditions, the program must take timely and adequate measures to prevent exposure of other staff and residents to such disease.

(14) Staffing
(i) Each residential program for victims of domestic violence must employ a qualified director who meets the qualifications set forth in 452.11(g) to perform supervisory functions of the program.

(ii) The director must designate and identify a sufficient number of qualified staff who will be responsible for directly providing the emergency core services set forth in section 452.12 of this Part. The director may be designated to perform these functions in lieu of a qualified staff person.

(iii) The director must designate and identify a sufficient number of qualified staff to perform the following other activities: meal preparation when meal preparation is provided onsite to assist residents as needed, transportation and community education/outreach.

(g) Staff Qualifications.

<table>
<thead>
<tr>
<th>Person responsible for program supervisory functions (Director)</th>
<th>Experience</th>
<th>Education/Training</th>
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<tbody>
<tr>
<td></td>
<td>Four years of relevant work experience, one year of which must include supervisory experience. Relevant work experience includes paid or volunteer work experience with victims of domestic violence and/or the direct provision of human services.</td>
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<td></td>
<td>Two years of relevant work experience, one year of which must include supervisory experience. Relevant work experience includes paid or volunteer work experience with victims of domestic violence and/or the direct provision of human services.</td>
<td>AND Two years of college in a related course of study</td>
</tr>
<tr>
<td>Staff designated to provide one or more of the emergency services (including hotline staff)</td>
<td>One year of relevant work experience which includes paid or volunteer work experience with victims of domestic violence and/or the direct provision of human services.</td>
<td>OR Six hours of training provided by the agency prior to assuming the responsibilities of the position in topics specified by (h)(2) of this subsection may be substituted for one year of experience.</td>
</tr>
<tr>
<td>Staff designated to provide Children's Services</td>
<td>Relevant work experience which includes paid or volunteer work experience with children</td>
<td>OR Educational background or training in child development</td>
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<tr>
<td>Staff providing</td>
<td></td>
<td>Must have a valid driver’s</td>
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(h) Staff Training

(1) Prior to assuming any responsibilities as an employee or volunteer at a residential program for victims of domestic violence, all staff must be provided with a written copy of their job description and must receive an orientation to the services provided by the program, which must include confidentiality issues, child abuse reporting requirements, policies and procedures, and job responsibilities.

(2) A written training plan must be developed for staff positions involved in the direct provision of emergency services. This plan must include a description of the content of the orientation as described in this subdivision and address how staff will receive on-going training. The plan may include and need not be limited to training in the following topics:

(i) Dynamics of domestic violence, including an understanding of the ongoing patterned use of intimidation, coercion, and violence to establish and maintain dominance over an intimate partner; and an understanding of coercive control tactics which can include physical, psychological, sexual economic and/or emotional abuse;

(ii) Child abuse reporting requirements, including identification and prevention of child abuse and maltreatment, how to make a report to the state central register, reporting protocols, and what information can be provided during investigations;

(iii) Statutes and regulations pertaining to residential programs for victims of domestic violence;

(iv) Confidentiality issues, which includes the protection of personally identifying information of victims of domestic violence; protection of the residential facility’s physical address; protection of the identity of victims of domestic violence;

(v) Legal remedies, including providing an understanding of the legal rights and options available to victims of domestic violence. Legal remedies do not mean providing legal advice and/or representation by someone other than an attorney;

(vi) Community resources and services, including community and/or government resources that can help victims of domestic violence meet
their basic needs. Basic needs include and are not limited to: food, health, and housing. Services may include and are not limited to: transportation, employment, housing, health care, mental health care, alcohol/substance abuse, education needs and social services;

(vi) Organizational policy which includes: reviewing the organization’s policies/personnel manual, time and attendance, job descriptions, safety and security, confidentiality, data systems, grievance protocols, etc.;

(vii) Substance abuse treatment options;

(viii) Mental health services;

(ix) Diversity and inclusion which includes: understanding how culture, ethnicity, religion, sexuality and/or gender identity/expression can influence/impact domestic violence victims; how to provide services to victims in a respectful manner as to increase the quality of services and provide better outcomes.

(3) All staff providing direct provision of emergency services must have an individualized staff development plan that identifies trainings completed and future training topics the individual may need to increase their knowledge and/or skills needed to carry out their duties. The agency may exempt any person from participating in a particular topic upon demonstration of substantially equivalent knowledge or experience to that topic.

(4) The program must maintain verification of completion of training requirements and provide such verification to the upon request.

452.12 Emergency Core Services

Emergency services. In addition to the provision of temporary shelter at the facility, which must be available on a 24-hour basis, seven days a week, including weekends and holidays, the following emergency services must be offered and provided directly by the operator of the facility or, in the case of medical services, through a linkage agreement. Acceptance of any service on behalf of the resident is voluntary.

(a) Hotline services: The provision of immediate live assistance to victims of domestic violence through a telephone hotline which provides crisis intervention counseling and information and referral, and referrals to other available residential programs when the facility is filled to capacity.

(1) Such telephone hotline assistance must be made available on a 24-hour basis, seven days a week, including weekends and holidays.

(2) Admissions into domestic violence shelters and mixed occupancy shelters must be available on a 24-hours basis, seven days a week, including weekends and holidays.

(3) Admissions to safe homes and safe dwellings will be determined by the safe
home network and domestic violence sponsoring agency’s policies and may be limited to regular business hours.

(4) Staff or volunteers responsible for the provision of such services must be knowledgeable about the dynamics of domestic violence intervention, facility services and the availability of community resources.

(b) Information and referral which means:

(1) providing information about and referral to community services and programs which are available to meet the individual needs of residents. Referrals to such services must be made available to residents on a daily basis during regular business hours;

(2) providing alleged perpetrators of domestic violence, upon request, with information and referral to existing community services and programs which may meet the individual needs of such persons; and

(3) maintaining and making accessible to all residents a list of community services and programs which may be reasonably requested by victims of domestic violence, their minor children and other dependent family members.

(c) Advocacy, which means the provision by a program of liaison services or active intervention with community resources and services on behalf of a resident.

(1) Advocacy services must be made available to residents on a daily basis during regular business hours.

(2) Services must include but are not limited to, assistance in accessing legal services, remedies and protections; obtaining medical care, social services, employment and housing; and obtaining and submitting public assistance applications where appropriate.

(3) Staff persons or trained volunteers responsible for advocacy services must be knowledgeable about community services and agencies, and the rights of victims of domestic violence to obtain necessary services and assistance.

(d) Counseling refers to crisis intervention, emotional support, guidance and counseling services provided by advocates, case managers, counselors or mental health professionals. Counseling may occur in person or by telephone. Counseling provided must address:

(1) needs identified by the resident;

(2) options to promote or support a resident's safety;

(3) an understanding of the nature of domestic violence;

(4) legal options; and

(5) skills in problem solving.
(e) Children’s services include the following, which may be delivered in collaboration with the parent receiving services:

(1) making appropriate arrangements to, provide for the education of school-aged children in compliance with article 65 of the New York State Education Law, part 1, section 3201 et seq.;

(2) assisting parents, as needed, in arranging care for their children when such care is necessary to enable the parent to seek employment, housing and/or services or activities necessary to alleviate the parent’s need for temporary shelter and emergency services;

(3) offering age appropriate recreational and social activities on a daily basis during regular business hours for children residing in the facility; and

(4) offering and providing appropriate counseling services to children residing in the facility.

(f) Support groups which means the provision by the program of peer support to interested residents through discussing in group settings experiences about domestic violence.

(1) Support groups must be made available to residents at least once each week.

(2) Such groups must be coordinated by a qualified employee or trained volunteer and must not replace individual counseling when requested by the resident.

(g) Transition planning which means the program:

(1) prior to a resident's planned departure from the facility, efforts are made to involve the resident in discussions on available community services and programs which may assist the resident in carrying out their intended future plans upon departure. Such transitional plan may include, and are not limited to, counseling services, employment or training services, educational services, legal services, medical services, day care and housing services. Any referrals to other residential programs for victims of domestic violence must be documented in the resident's case record; and

(2) recognizing every resident's need for safety and confidentiality and contacting residents after departure only when the residents have given prior written approval. Such approval must be documented in the resident's case record. Nothing in this subparagraph mandates the participation of the resident in transitional planning.

(h) Medical services which means:

(1) The program having an established linkage, documented by a letter of agreement, with a fully accredited medical institution or clinic or with qualified medical personnel, which include a physician, physician's assistant or nurse practitioner, for the referral of residents for health examinations where necessary, and follow-up visits.

(2) When a referral for additional screening for physical examination, laboratory and
tuberculin tests, inoculations and other appropriate treatment has been made, the program must assist the resident in arranging for such treatment when requested by the resident.

(i) Transportation which means the program:

(1) to the extent possible, arranging for transportation to the facility in an emergency; and

(2) to the extent possible, making transportation available to residents in order for the residents to secure legal, medical, housing, employment, or public assistance services or assist residents to obtain available public or private transportation where possible.

(j) Community education/outreach which means the provision of educational activities by the program to the community on the need for and benefits of domestic violence services, the dynamics of domestic violence, and prevention of domestic violence by making presentations, distributing written materials, and utilizing the media. The availability of program services must be made known to police agencies, courts, hospital personnel, and local social services districts. A segment of such community education/outreach must be focused on informing victims of domestic violence about existing services.

(k) Language access services which means providing interpretation and translation services for oral and written information for limited and/or non-English speaking victims of domestic violence.
18 NYCCR Part 455 is repealed and a new 18 NYCRR Part 455 is adopted as follows:

PART 455 STANDARDS FOR DOMESTIC VIOLENCE SPONSORING AGENCIES AND SAFE DWELLINGS

Sec.
455.1 Scope
455.2 Definitions
455.3 General requirements for operation of a domestic violence sponsoring agency
455.4 Maximum length of stay
455.5 Domestic violence sponsoring agency and resident responsibilities
455.6 Nutrition
455.7 Staffing
455.8 Security
455.9 Environmental standards for safe dwellings
455.10 Records and reports
455.11 Supervision of domestic violence safe dwellings

Section 455.1 Scope.

The provisions of this Part, along with the provisions of Part 452 of this Title, apply to domestic violence sponsoring agencies and domestic violence safe dwellings and are separate from Parts 453 and 454 of this Title.

455.2 Definitions. The provisions of Part 452.2 of this Title apply to this Part.

455.3 General requirements for the operation of a domestic violence sponsoring agency.

(a) Domestic violence sponsoring agencies are responsible for approving domestic violence safe dwellings, placing residents in domestic violence safe dwellings which exclusively serve victims of domestic violence and ensuring that residents are only placed in those domestic violence safe dwellings which have been approved as meeting the security standards contained in section 455.8 of this Part and the environmental standards contained in section 455.9 of this Part.

(b) Prior to the approval of a domestic violence safe dwelling and placement by a domestic violence sponsoring agency of a resident in a domestic violence safe dwelling, the domestic violence sponsoring agency must obtain the approval of the Office for the security plan as described in section 452.4(f)(4) of this Title for a particular domestic violence safe dwelling in the form and manner prescribed by the Office. The security plan must include a diagram of the domestic violence safe dwelling and the security precautions to be implemented for such domestic violence safe dwelling. The Office will review the security plan to determine compliance with the security standards of section 455.8 of this Part. Any subsequent changes to a security plan must be submitted to the Office for review and approval before such changes are implemented.

(c) Domestic violence sponsoring agencies having a maximum length of stay policy at a domestic violence safe dwelling of less than 90 days must have an established linkage, to the extent shelter and services are available, with an approved domestic violence
shelter or domestic violence program to refer domestic violence safe dwelling residents who continue to be in need of temporary shelter and emergency services beyond the stay permitted at a domestic violence safe dwelling.

(d) If a domestic violence safe dwelling does not have an onsite staff person, an employee or volunteer of the sponsoring agency must, at a minimum, visit the domestic violence safe dwelling on a weekly basis whenever there are residents being sheltered in the domestic violence safe dwelling in order to ensure that the safe dwelling is being maintained in a safe and sanitary manner and that the personal needs of the residents are being met.

455.4 Maximum length of stay.

The provisions of section 452.9(c) of this Title apply to the maximum length of stay of residents in domestic violence safe dwellings; provided, however, that domestic violence sponsoring agencies may impose a length of stay which is less than the maximum set forth in such section.

455.5 Domestic violence sponsoring agency and resident responsibilities.

In addition to the provisions set forth in section 452.9(a)(8) of this Title, the notice of the resident’s rights and responsibilities provided by the domestic violence sponsoring agency to the resident must contain:

(a) the rules of the domestic violence safe dwelling;

(b) the plan for emergency medical care to obtain emergency medical assistance on a 24-hour basis;

(c) the requirement for a sponsoring agency staff person to visit the safe dwelling on a weekly basis;

(d) the requirement for residents to keep confidential the name and address of the domestic violence safe dwelling and the names of any other residents, and to disclose such information only to those persons authorized by the domestic violence sponsoring agency;

(e) the requirement for residents to be responsible for the supervision and management of their children during their stay in a domestic violence safe dwelling; and

(f) the requirement for the domestic violence sponsoring agency to have contact with each adult resident every 48 hours if the domestic violence safe dwelling does not have an onsite employee or volunteer.

455.6 Nutrition

(a) Provisions to prepare three well-balanced and nutritious meals must be available to residents at each safe dwelling when occupied.
(b) Contracted food services are allowable.

(c) When planning for meals, consideration must be made for the residents’ varied dietary needs, including but not limited to any medically prescribed nutritional needs, allergies, culture and religious practices. Nothing herein requires the maintenance of separate kitchen facilities or supplies to comply with cultural or religious practices.

455.7 Staffing.

(a) General requirements. The term staff, as used in this section, means compensated employees and volunteers of the domestic violence sponsoring agency.

(b) Staff/resident ratios.

(1) There must be at a minimum one employee who is designated director of the domestic violence sponsoring agency and who is responsible for the general management and administration of the domestic violence sponsoring agency and domestic violence safe dwelling program. The director is responsible for the supervision of volunteers or for the designation of an employee to supervise volunteers.

(2) Each domestic violence sponsoring agency must provide a sufficient number of staff to supervise the general management of each domestic violence safe dwelling in order to ensure that the safe dwelling is maintained in a safe and sanitary condition, to supervise sponsoring agency volunteers and to ensure the delivery of core emergency services and, if available, optional emergency services specified in 452.12 of this Title to all eligible residents.

(3) Each domestic violence sponsoring agency must have, at a minimum, one employee or volunteer of the domestic violence sponsoring agency or an employee or volunteer or a designee or the domestic violence sponsoring agency on call at all times to provide crisis intervention, counseling and information and referral as set forth in section 452.12(a) of this Title.

(4) Whenever residents are being sheltered, each domestic violence sponsoring agency must have, a sufficient number of competent staff onsite or on call at all times to respond to resident needs and emergency situations. The telephone number for residents to call in an emergency must be posted nearby a telephone as specified in section 455.8(c) of this Part.

(5) During regular business hours when there are residents being sheltered, the following minimum number of staff must be on duty which at a minimum includes one employee:

<table>
<thead>
<tr>
<th>Range of Number of Residents</th>
<th>Minimum number of staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-9</td>
<td>1 staff person</td>
</tr>
<tr>
<td>10-21</td>
<td>2 staff persons</td>
</tr>
<tr>
<td>22-33</td>
<td>3 staff persons</td>
</tr>
<tr>
<td>34-45</td>
<td>3 staff persons</td>
</tr>
</tbody>
</table>
For each additional increment of 12 residents over 46, one additional staff person must be added upon entering the next range of the number of residents.

455.8 Security.

(a) Each domestic violence safe dwelling must be secured to ensure the physical safety of residents on a 24-hour basis. At a minimum, each domestic violence safe dwelling must have safety locks on all exit and entry doors. These doors must be secured at all times and specific admittance procedures must be in place for anyone entering the safe dwelling.

(b) Based upon the individual characteristics of each domestic violence safe dwelling, including but not limited to location of the domestic violence safe dwelling and the extent to which the location of the dwelling is known in the community, construction characteristics of the domestic violence safe dwelling and use of the building for purposes other than the provision of services to victims of domestic violence, additional security measures, including but not limited to the hiring of staff and installation of security devices may be required by the Office.

(c) A working telephone with emergency telephone numbers for fire, police and medical assistance posted nearby must be made available for use to residents at all times. The phone must remain in a designated visible location during all hours residents are present in the safe dwelling. Domestic violence safe dwellings that do not have an onsite employee or volunteer must include on this list of emergency numbers the telephone number of the person on call specified in section 455.7(b)(4) of this Part.

455.9 Environmental standards for safe dwellings.

(a) Each domestic violence safe dwelling approved by a domestic violence sponsoring agency must be in conformance with applicable State and local laws, regulations and ordinances relating to the following areas:

1. Health and safety;
2. Sanitation and maintenance
3. Fire prevention and fire protection;
4. Building and construction standards of physical plants;
5. Plumbing and water supply;
6. Heating and electrical systems

(b) All inspection certificates and other documents required by State and local authorities for buildings, grounds and equipment must be current, maintained on the premises, and available for Office review at all times.
Each safe dwelling must demonstrate compliance with the following requirements:

1. General requirements.

   a. Each safe dwelling must be maintained in a good state of repair and sanitation and must be free of safety hazards. Peeling or damaged paint or plaster must be repaired.

   b. Each safe dwelling must be of sufficient size to provide adequate living accommodations for the residents.

   c. Each safe dwelling must be suitably furnished and equipped.

   d. Each safe dwelling must maintain the temperature in the safe dwelling at a comfortable level.

   e. Each safe dwelling must assure that all rooms are adequately lighted and ventilated. All exits which are accessible to residents must be well-lighted.

   f. Heating systems shall be capable of maintaining a minimum room temperature of 68 degrees Fahrenheit in all habitable rooms and shall be maintained in good working order.

   g. Adequate and safe water supply and sewage facilities must be provided and in conformance with State and local laws. Hot and cold running water must be available and accessible at all times.

   h. A secured area or container must be maintained by each safe dwelling to secure valuable personal belongings of any residents requesting such security.

   i. A multistory combustible dwelling must have a minimum of one exit stairway from each floor above the first floor and at least one additional alternate, safe means of emergency egress from each floor above the first floor.

   a. Residential programs located outside of New York City: For a window opening to qualify as a means of egress, the minimum size shall have net clear opening of 5.7 square feet. The bottom of the clear opening shall not be greater than 44 inches measured from the floor. The minimum net opening height dimension shall be 24 inches and the minimum net clear opening width dimension shall be 20 inches. The net clear opening dimensions shall be the result of normal operation of the window. An upper level window, to qualify as a means of egress, must also have a platform outside the window and a stair, permanently affixed to the building, leading to ground level.

   b. Residential programs located within New York City: For a window
opening to qualify as a means of egress, the minimum size shall have net clear opening of 6 square feet. The bottom of the clear opening shall not be greater than 36 inches measured from the floor. The minimum net opening height dimension shall be 30 inches and the minimum net clear opening width dimension shall be 24 inches. The net clear opening dimensions shall be the result of normal operation of the window. An upper level window, to qualify as a means of egress, must also have a platform outside the window and a stair, permanently affixed to the building, leading to ground level.

(c) Any facility licensed and operating as a residential program for victims of domestic violence as defined in Part 452.2 in this Title prior to January 1, 2019 can use safe means of emergency egress from each floor above the first (e.g. rescue ladder, fire escape, etc.) Any renovations/construction to the building after January 1, 2019 must comply with the provisions of subsection (a) of this part.

(d) Sleeping areas.

(1) Sleeping areas must be separate and distinct from other living areas and must have adequate heat, light and ventilation. Sleeping rooms in self-contained units must be separate and distinct from living areas.

(2) The facility must furnish each resident, whether an adult or child, with a clean bed (or crib for infants). Beds placed side-by-side, must be spaced at least two feet apart from other beds. Bunk beds are permissible.

(i) The bed must be solidly constructed, and in good repair with a clean, comfortable and well-constructed mattress, standard in size for the bed and a clean and comfortable pillow of standard size. Pillows must not be used for infants and must not be used in cribs.

(ii) All cribs must be in compliance with the safety standards established by the US Consumer Product Safety Commission (CPSC). Stackable cribs are prohibited.

(a) Cribs, bassinets and other sleeping areas for infants must not have bumper pads, toys, large stuffed animals, heavy blankets, pillows wedges or infant positioners unless medically indicated by the infant’s health care provider.

(b) Parents of infants must be informed of safe sleep practices which include the safest sleeping arrangements for infants is to be placed on his or her back to sleep.

(iii) All bunk beds must be in compliance with the safety standards established by the US Consumer Product Safety Commission.

(3) Sleeping rooms must have a minimum of 70 square feet with a minimum
horizontal dimension of 7 feet. Sleeping rooms for more than one occupant must have at least 50 square feet per each additional person.

(i) Any facility licensed and operating as a residential program for victims of domestic violence as defined in Part 452.2 in this Title prior to January 1, 2019 are not subject to the provision of subsection (d)(3) of this part. Any renovations/construction to the building after January 1, 2019 must comply with the provisions of subsection (a) of this part.

(4) Adequate accommodations must be made for the storage of personal belongings and clothing.

(e) Supplies.

(1) Each resident must be supplied with adequate personal hygiene articles and, where needed, diapers for children.

(2) Bed linens, blankets and towels must be available, clean, and in good condition.

(f) Bathing facilities.

(1) There must be at a minimum one sink, toilet and bathtub or shower per domestic violence safe dwelling.

(2) Each resident must be provided with toilet articles such as towels and washcloths.

(3) Bathrooms must be cleaned, sanitized with disinfectant, and maintained regularly to ensure cleanliness and sanitation.

(4) All toilet and bathing areas must be vented by means of natural or mechanical ventilation to the outside air.

(5) All bath tubs and showers must have a nonskid surface.

(g) Living area. A lounging and recreation area must be provided to serve the recreational and social needs of the residents.

(h) A dining area must be provided with adequate space and furnishings to serve all the residents.

(i) Kitchens, sanitation and sanitary procedure.

(1) All kitchens or food preparation areas must be adequately lighted, ventilated, and provided with essential and proper equipment for food storage, refrigeration, freezing, preparation and serving for the number of residents to be served.

(2) All kitchen equipment and surroundings must be kept clean, and garbage and trash must be kept in suitable covered containers and removed daily.

(3) Dishes, glassware, eating and cooking utensils and food containers must be
properly washed and dried.

(4) Residents, volunteers and employees participating in the handling and preparation of food for consumption by the residents must be in good health, take proper sanitary precautions, and wash hands prior to engaging in such activity.

(5) All lavatories, sleeping areas, recreational areas, hallways and other living areas must be kept clean and sanitary. Domestic violence safe dwellings must conspicuously post the procedures for cleaning and maintaining the entire domestic violence safe dwelling.

(6) An employee of the domestic violence sponsoring agency must be responsible for assuring that the procedures contained in this subdivision are implemented.

(j) Safety procedures.

(1) All medications (prescription and over-the-counter) must be kept by residents or any onsite staff in a secure place so as not to be accessible to children or other adult residents.

(2) Containers of chemical cleaning agents and other toxic material must be labeled, stored and secured in a place out of reach of children.

(3) Children must not be permitted to operate any power equipment or electrical appliances except under the close supervision of a responsible staff member, or the children's parents.

(4) No hazardous condition must be permitted to exist in any part of the safe dwelling. The following requirements must be complied with in order to eliminate hazardous conditions:

(i) hallways, corridors and furnace room must not be used for storage of equipment or trash;

(ii) stairways must have sturdy and securely fastened handrails; and

(iii) all electrical cords and plugs must be in good condition with no exposed or frayed wiring.

(5) All operable windows must be equipped with screens and guards or locks. All windows in sleeping areas must have shades or other appropriate window coverings to ensure privacy.

(6) All window and door blind cords, ropes, and wires and other strangulation hazards must be secured and inaccessible to children.

(7) All electrical outlets accessible to children must be adequately protected.

(k) Fire safety procedures. Suitable precautions must be taken to eliminate all conditions which may contribute to or create a fire.
(1) Each safe dwelling must be kept free of fire hazards.

(2) Smoke detectors shall be installed and maintained in every sleeping room, on each floor level and in the corridor adjacent to any sleeping rooms.

(3) Carbon monoxide detector(s) shall be installed on each level of the home that contain sleeping areas and maintained in accordance with the Uniform Code and the manufacture’s installation instructions.

(4) Each safe dwelling must be equipped with an ABC rated fire extinguisher in the kitchen, laundry room and furnace room which meets National Fire Protection Association standards. The extinguisher must be properly installed, charged and maintained. Onsite staff must be knowledgeable and trained in the use of the fire extinguisher. Upon arrival to a safe dwelling, all new adult residents must be trained in the use of the fire extinguisher.

(5) Building exits must be clearly marked and free of obstructions at all time.

(6) Smoking must not be permitted in bedrooms and any common indoor areas of the safe dwelling unit.

(7) Prior to the use of wood stoves and/or fire places, the facility must have an annual inspection by applicable local authority having jurisdiction or an inspector qualified to approve fuel burning systems and approval from the Office.

(8) The following are fire hazards and are prohibited:

   (i) portable space heaters of any type;

   (ii) non-metal containers which contain residue from solid fuel burning appliances;

   (iii) accumulation of combustible materials in any part of the safe dwelling;

   (iv) storage of flammable or combustible liquids in anything other than closed containers listed by an acceptable testing laboratory;

   (v) cooking appliances in resident bedrooms;

   (vi) overloaded electrical circuits;

   (vii) extension cords, unless approved in writing by the Office; and

   (viii) any other condition deemed hazardous by the Office.

(I) Each domestic violence safe dwelling must have disaster and emergency procedures to be followed in the event of an emergency or disaster such as a fire or a flood, or power failure which must be explained to new residents prior to the placement of the residents in the safe dwelling. Such procedures must include a plan for emergency medical care in order for residents to obtain emergency medical assistance on a 24-hour basis. Emergency procedures outlining the method and manner in which residents are to
evacuate the domestic violence safe dwelling in the event of fire and other emergencies must be conspicuously posted on each floor of the domestic violence safe dwelling.

455.10 Records and reports.

In addition to the records and reports requirements of section 452.9(b) of this Title, the domestic violence sponsoring agency must maintain an individual record for each domestic violence safe dwelling which includes the following information:

(a) the location and capacity of the domestic violence safe dwelling, a description of the domestic violence safe dwelling's physical plant, the security plan as required by section 455.3(b) of this Part, a diagram of the rooms which must be labeled with the planned use of all areas, and must indicate plumbing fixtures, such as toilets, sinks and bathtubs and/or showers, and the location of smoke detectors, fire extinguishers and telephones;

(b) a list of specific domestic violence safe dwelling rules to be discussed with residents prior to placement;

(c) a record of all fires or accidents or incidents involving residents occurring in safe dwellings, including a description of each incident, steps taken to control or manage them, and steps taken to prevent the recurrence of such an incident; and

(d) a copy of the annual reevaluation of the domestic violence safe dwelling which is issued under section 455.11(b) of this Part.

455.11 Supervision of domestic violence safe dwellings.

(a) Each domestic violence sponsoring agency is responsible for ensuring that domestic violence safe dwellings approved by the domestic violence sponsoring agency pursuant to this Part operate in compliance with Office regulations.

(b) The domestic violence sponsoring agency must reevaluate each approved domestic violence safe dwelling on an annual basis using the standards contained in sections 455.8 and 455.9 of this Part. This reevaluation must be documented in the domestic violence safe dwelling record.

(c) In the event that a complaint has been made against a domestic violence safe dwelling and the Office has found the health, safety and/or welfare of any resident of the domestic violence safe dwelling to be in imminent danger, the domestic violence sponsoring agency must cease using the domestic violence safe dwelling. The sponsoring agency must remove any residents from the domestic violence safe dwelling and must not place nor arrange to place any other residents in such domestic violence safe dwelling until the sponsoring agency can demonstrate to the Office that the endangering condition(s) have been corrected.
Subdivisions (c) and (d) are renumbered to (d) and (e) and a new subdivision (c) is added to Section 462.2 of Title 18, as follows:

(c) Office means the New York State Office of Children and Family Services

[(c)](d) Residential program for victims of domestic violence means any residential program as defined in Part 452.2 of this Title, approved by the [department] Office and operated by a not-for-profit organization for the purposes of providing temporary shelter, emergency services [and care] to victims of domestic violence. Residential programs for victims of domestic violence include: domestic violence shelter, domestic violence mixed occupancy shelter, domestic violence sponsoring agency, and safe home network.

[(d)](e) Victim of domestic violence means any person 16 years of age or older, any married person or any parent accompanied by [his or] his/her minor child(ren) [or children] in situations in which such person or such person’s child is a victim of an act which would constitute a violation of the Penal Law, including, but not limited to acts constituting disorderly conduct, harassment, menacing, reckless endangerment, kidnapping, assault, attempted assault, or attempted murder; and

(1) such act or acts have resulted in actual physical, sexual, economic or emotional injury or have created a substantial risk of coercive control, physical, sexual, economic, or emotional harm to such person or such person's child; and

(2) such act or acts are or are alleged to have been committed by a family or household member. Family or household members means the following individuals:

[(e)] [For the purposes of subdivision (d) of this section, “family or household members” means the following persons:]

(1) persons related by blood or marriage;

(2) persons legally married to one another;

(3) persons formerly married to one another regardless of whether they still reside in the same household;

(4) persons who have a child in common regardless of whether such persons are married or have lived together at any time;

(5) unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household; or

(6) unrelated persons who have had intimate or continuous social contact with one another and who have access to one another's household.
subsection (a) paragraph (2) Section 462.3 of Title 18, is amended as follows:

(2) (i) Non-residential services for victims of domestic violence must be provided in a manner which addresses the needs of victims of domestic violence who have special needs including, but not limited to, victims who are physically handicapped, hearing impaired and non-English speaking. [Victims of domestic violence who meet the eligibility criteria for protective services for adults as set forth in Part 457 of this Title must receive services in accordance with that Part.]

Subdivision (c) of Section 462.3 of Title 18 is amended to create new subparagraphs (1), (2), (3), and (4), as follows:

(c) Data collection requirements. Each social services district must provide the [department] Office, on such forms or in such manner as the [department] Office may require from time to time, with aggregate data regarding:

(1) the number of victims, children of victims and other family or household members which received services from each non-residential program for victims of domestic violence operated directly by the social services district or by a not-for-profit organization pursuant to a purchase of services contract with the district;

(2) the types of services such persons received;

(3) the number of telephone hotline calls and other telephone calls requesting information and/or referral services received by each program;

(4) and any other data required by the [department] Office.

Subdivision (a) of section 462.4 of Title 18 is amended to read as follows:

(a) Core services. Each non-residential program for victims of domestic violence operated directly by a social services district or by a not-for-profit organization pursuant to a purchase of services contract with a social services district must offer and provide all of the following core services directly. Acceptance of any service on behalf of the victim of domestic violence is voluntary. Core services must be offered on a daily basis, excluding weekends and holidays, during regular business hours:

Paragraph (1) of subdivision (a) of section 462.4 of Title 18 is amended to create new subparagraphs (i), (ii) and (iii) as follows:

(1) Telephone hotline assistance which means providing immediate crisis intervention counseling and information and referral services to victims of domestic violence through a telephone hotline.

(i) Such assistance must be provided directly by the non-residential program during regular business hours.
(ii) When the program is closed, the non-residential program, at a minimum, must have an answering machine that provides victims of domestic violence with a telephone number to call for emergency assistance.

(iii) The employees and volunteers responsible for providing telephone hotline assistance must have received training on the dynamics of domestic violence, the program’s services, and the availability of residential programs for victims of domestic violence and of other community resources.

Subparagraph (ii) of paragraph (2) subdivision (a) of Section 462.4 of Title 18 is amended as follows:

(ii) providing [perpetrators and] alleged perpetrators of domestic violence, upon request, with information and referral to existing community services and programs which may meet the individual needs of such [perpetrators] persons; and

Paragraph (3) of subdivision (a) of section 462.4 of Title 18 has formatting changes in create new subparagraphs (i) and (ii) as follows:

(3) Advocacy which means providing liaison services or active intervention with community services and programs on behalf of victims of domestic violence.

(i) Such services must include, as appropriate, assistance in accessing legal remedies and protections and law enforcement personnel; obtaining medical care, social services, employment and housing; and obtaining and submitting public assistance applications.

(ii) The employees and volunteers responsible for advocacy services must have received training on the community services and programs available to meet the needs of victims of domestic violence and of the rights of victims of domestic violence to obtain necessary services and assistance.

Paragraph (4) of subdivision (a) of section 462.4 of Title 18 is amended as follows:

(4) Counseling [which means providing individual and/or group counseling to victims of domestic violence.] refers to crisis intervention, emotional support, guidance and counseling provided by advocates, case managers, counselors or mental health professionals. Such counseling may occur in person or by telephone. The counseling provided must stress self-sufficiency and must:

(i) address the needs identified by the victims;

(ii) assist the victims to seek services on their own behalves;

(iii) inform the victims of the options available to ensure their safety
and the safety of their minor children;

(iv) inform the victims of the nature of [family] domestic violence and its effects on children;

(v) inform the victims of the legal, financial and housing options available to them; and

(iv) assist the victims to improve their problem-solving skills.

[Counseling for couples must not replace the individual and/or group counseling which must be made available to victims of domestic violence pursuant to this subdivision.] The employees and volunteers responsible for providing counseling must have the appropriate skills and training.

Paragraph (5) of subdivision (a) of section 462.4 of Title 18 is amended to create new subparagraphs (i), (ii), (iii), and (iv) as follows:

(5) Community education/outreach activities which means providing educational activities to the community regarding the need for and benefits of domestic violence services, the dynamics of domestic violence, and the prevention of domestic violence by making presentations, distributing written materials and using the media.

(i) When there is more than one agency in the community providing non-residential and/or residential services to victims of domestic violence, a non-residential program must make an effort to coordinate its community education/outreach activities with these other agencies.

(ii) A segment of the community education/outreach activities must be focused on informing the personnel of schools, police agencies, courts, hospitals and social services districts about the availability of the program’s services.

(iii) A segment of the community education/outreach activities also must be focused on informing victims of domestic violence, including underserved populations, about existing services for such victims. The community education/outreach activities must be relevant to the ethnic composition of the community.

(iv) To ensure the safety of persons receiving services for victims of domestic violence and the confidentiality of their identities, the community education/outreach activities must not identify the location where residential [and non-residential] services for victims of domestic violence are provided.
A new paragraph (6) is added to subdivision (a) of section 462.4 of Title 18, as follows:

(6) Language access services which means providing interpretation and translation services for oral and written information for limited and/or non-English speaking victims of domestic violence.

Paragraph (1) of subdivision (b) of section 462.4 of Title 18 is amended as follows:

(1) Children’s services which means the program, in collaboration with the parent receiving services:

Paragraph (2) of subdivision (b) of section 462.4 of Title 18 is amended to create new subparagraphs (i) and (ii) as follows:

(2) Support groups which means providing peer support to interested victims of domestic violence by conducting meetings during which groups of victims discuss their experiences with [family] domestic violence.

(i) Support groups must be coordinated by a qualified employee or trained volunteer.

(ii) Support groups may not replace the individual and/or group counseling which must be made available to victims of domestic violence pursuant to subdivision (a) of this section.

Paragraph (4) of subdivision (b) of section 462.4 of Title 18 is repealed.

Subdivision (a), section 462.5 of Title 18 adds a new paragraph (3), (4) and (5), as follows:

(3) A written training plan must be developed for those staff positions involved in the direct provision of emergency services. This plan must include a description of the content of the orientation as described in this subdivision and address how staff will receive on-going training. The plan may include and need not be limited to training in the following topics:

(i) Dynamics of domestic violence, including an understanding of the ongoing patterned use of intimidation, coercion, and violence to establish and maintain dominance over an intimate partner; and an understanding of coercive control tactics which can include physical, psychological, sexual economic and/or emotional abuse;

(ii) Child abuse reporting requirements, including identification and prevention of child abuse and maltreatment, how to make a report to the state central register, reporting protocols, and what information can be provided during investigations;

(iii) Statutes and regulations pertaining to non-residential programs for
victims of domestic violence;

(iv) Confidentiality issues which include the protection of individual identifying information of victims of domestic violence; protection of the residential facility physical address; protection of the identity of victims of domestic violence;

(v) Legal remedies which include such things as understanding legal rights and options available to victims of domestic violence. Legal remedies do not mean providing legal advice and/or representation by someone other than an attorney;

(vi) Community resources and services which includes such things as community and/or government resources that can help victims of domestic violence meet their basic needs. Basic needs include and are not limited to: food, health, and housing. Services may include and are not limited to: transportation, employment, housing, health care, mental health care, alcohol/substance abuse, and social services;

(vii) Organizational policy which includes such things as reviewing the organization’s policies/personnel manual regarding and not limited to: time and attendance, job descriptions, safety and security, confidentiality, data systems, grievance protocols, etc.;

(viii) Substance abuse treatment options;

(ix) Mental health services;

(x) Diversity and inclusion, which includes such things and is not limited to: understanding how culture, ethnicity, religion, sexuality and/or gender identity/expression can influence/impact domestic violence victims; how to provide services to victims in a respectful manner as to increase the quality of services and provide better outcomes.

(4) All staff providing direct provision of emergency services must have an individualized staff development plan that identifies trainings completed and future training topics the individual may need to increase their knowledge and/or skills needed to carry out their duties. The agency may exempt any person from participating in a particular topic upon demonstration of substantially equivalent knowledge or experience to that topic.

(5) The program must maintain verification of completion of training requirements and provide such verification to the upon request.
Subparagraph (ii)(a)(1) of paragraph (2) of subdivision (b) of section 462.5 of Title 18 is amended to read as follows:

(1) dynamics of [family] domestic violence;

Subdivision (a) of section 462.6 of Title 18 is amended as follows:

(a) General requirements. A person who is a victim of domestic violence, as defined in section 462.2[(d)](e) of this Part, is eligible for non-residential services for victims of domestic violence whether or not the person is financially eligible for public assistance and care.

Subparagraph (ii) of subdivision (b) of section 462.6 of Title 18 is renumbered to paragraph (2) and is amended as follows:

[(ii)](2) A person will be deemed eligible for non-residential services for victims of domestic violence when such person provides information that he or she is a victim of domestic violence as defined in section 462.2[(d)](e) of this Part. The person may provide oral and/or documentary information to establish such eligibility. Once information is provided which establishes that the person is a victim of domestic violence, the person may not be required to provide any additional information for the purpose of determining eligibility.

A new subdivision (c) Section 462.6 of Title 18 adds as follows:

(c) Non-residential programs for victims of domestic violence must provide appropriate services for all victims of domestic violence, regardless of race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, marital status, or disability.

Subparagraph (ii) of paragraph (2) of subdivision (b) of section 462.7 of Title 18 is renumbered to (iii), a new subparagraph (ii) is added, and subparagraph (ii)(a), paragraph (2) is amended as follows:

(ii) There must be written personnel policies which include a nondiscrimination clause and which describe the terms and conditions of employment including hours of work, salary, vacation and sick leave, benefits, overtime policy, and any requirements regarding attendance at educational and training programs.

[(ii)](iii) Individual personnel records must be maintained for each staff person responsible for providing non-residential services for victims of domestic violence. Such records must include the following information:

(a) the name of the staff person, age, social security number, current home address and a person to contact in the event of an emergency;
Subdivision (a) of section 462.8 of Title 18 is amended, and paragraphs (1) and (2) are added as follows:

(a) Employees of non-residential program for victims of domestic violence operated directly by a social services district or by a not-for-profit organization pursuant to a purchase of services contract with a social services district must report any incidents of suspected child abuse or maltreatment to the Statewide Central Register of Child Abuse and Maltreatment (SCR), or cause such a report to be made, whenever a staff person employee has reasonable cause to suspect that a child coming before the staff person has been abused or maltreated, or when a child's parent makes statements from personal knowledge, facts, conditions, or circumstances to a staff person, which if correct, would render the child abused or maltreated as defined in section 412 of the Social Services Law, parent or other person legally responsible for a child comes before them in their professional or official capacity and provides information that gives the employee a reasonable basis to suspect that a child is being abused or maltreated. This must be done in the following manner:

(1) Non-residential programs for victims of domestic violence must make an immediate report to the SCR by telephone, followed by a written report within 48 hours, in the form and manner prescribed by the Office, to the child protective service of the social services district in the county in which the child resided at the time of the suspected incident.

(2) After making the initial report, the reporting employee must immediately notify the director of the program or a designee that the report was made.

Section 462.8(b) of Title 18 is repealed.

Paragraph (1) and subparagraph (ii) of subdivision (a) of section 462.9 of Title 18 are amended as follows:

(1) the Office and any social services district contracting with the program for the provision of non-residential services for victims of domestic violence will have full access, on-site at the program's Office, to the following information:

(ii) the specific information regarding the persons receiving services from the program which must be maintained in individual case records in accordance with section 462.7(a) of this Part, provided that access to personally identifying information is only permitted upon informed, written, reasonably time-limited consent from the person receiving services;
Paragraph (5) of subdivision (a) of section 462.9 of Title 18 is amended as follows:

(5) a person engaged in a bona fide research purpose will have access to information consistent with applicable law and regulations; provided, however, that in no case will such person have access to personally identifying information regarding persons receiving services, [from the program unless such information is essential to the research purpose and the department has given prior approval for access to such identifying information.]

Subparagraphs (iv), (v) and (vi) of paragraph (1) of section 462.9(b) of Title 18 are amended as follows:

(iv) an agency or person may disclose information pertaining to a person receiving services from such a program pursuant to a informed, written, reasonably time-limited consent [authorization] from the person to whom the information pertains;

(v) a federal, State or local agency which has conducted a fiscal audit of such a program may disclose a final report regarding the findings of the audit to the public; provided, however, that in no case may information which would identify any person receiving services from the program or the location of the places where [non-residential or] residential services for victims of domestic violence are provided be disclosed; or

(vi) a person engaged in a bona fide research purpose may disclose the findings of such research to the public; provided, however, that in no case may [information which would identify any person receiving services from the program] personally identifying information of any victim of domestic violence or the location of the places where [non-residential or] residential services for victims of domestic violence are provided be disclosed.

Paragraph (2) of subdivision (b) of section 462.9 of Title 18 is amended as follows:

(2) An employee of the [department] New York State Office of Children and Family Services or of a local social services district given access to information pursuant to this section who re-discloses such information in a manner which is not consistent with the provision of this Part [is] may be subject to disciplinary action in accordance with applicable collective bargaining agreements and laws and regulations.

Subdivision (a) of section 462.10 of Title 18 is amended as follows:

(a) Expenditures made by a social services district for those non-residential services for victims of domestic violence which are included in the social services district's multi-year consolidated services plan which has been approved by the [department] Office pursuant to section 34-a of the Social Services Law. [will be subject to 50 percent
reimbursement from the State] The state will reimburse the local district at the applicable percentage as delineated in the enacted budget as follows:

Subdivision (b) of section 462.10 of Title 18 is amended as follows:

(b) Reimbursement by the [department] Office to a social services district for non-residential services for victims of domestic violence must be claimed on such forms and in such a manner as the [department] Office may require.
Paragraphs (a) and (b) of subdivision 1 of section 131-u of the social services law are REPEALED.

§ 3. Subdivision 2 of section 131-u of the social services law, as amended by chapter 169 of the laws of 1994, is amended to read as follows:

2. The department shall annually establish, subject to the approval of the director of the budget, a daily rate of reimbursement for each residential program for victims of domestic violence, as defined in article
six-A of this chapter, certified by the department which provides emergency shelter and services to persons eligible for such emergency shelter and services pursuant to this section. A social services district financially responsible for a victim of domestic violence shall reimburse a residential program for victims of domestic violence for the costs of emergency shelter and services provided to such victim at the daily reimbursement rate established by the department reduced by [the sum of all fees which such victim is able to pay toward the costs of such shelter and services as determined in accordance with the public assistance budgeting rules set forth in the regulations of the department and by] any [third-party] other reimbursement available for such costs.

§ 4. Section 459-f of the social services law, as amended by chapter 169 of the laws of 1994, is amended to read as follows:

§ 459-f. [Fees] Payment for services. Any program defined in subdivision four of section four hundred fifty-nine-a of this article may charge a service fee to a victim of domestic violence who is able to pay all or part of the costs of the emergency shelter and services provided to the victim. Payments by a social services district to a residential program for victims of domestic violence for the costs of emergency shelter and services provided to a victim of domestic violence at the daily reimbursement rate determined by the department in accordance with section one hundred thirty-one-u of this chapter shall be reduced by the sum of [all fees which such victim is able to pay toward the costs of such shelter and services as determined in accordance with the public assistance budgeting rules set forth in the regulations of the department and by] any [third-party] other reimbursement available for such costs.

§ 5. This act shall take effect April 1, 2019.