

Justice Center for the Protection of People with Special Needs

As required by State Administrative Procedure Act § 207, the following is a list of rules which were adopted by the Justice Center for the Protection of People with Special Needs (Justice Center) in calendar year 2013 which must be reviewed in calendar year 2018. Public comment on the continuation or modification of these rules is invited and must be received within 45 days of the date of the publication of this Notice. Comments may be directed to: Deirdre Keating, Associate Attorney, Office of General Counsel at deirdre.keating@justicecenter.ny.gov or via mail to the Justice Center at 161 Delaware Avenue, Delmar, NY 12054.

RULES ADOPTED IN 2013 and effective on June 26, 2013:

1) Addition of Part 700 to Title 14 NYCRR

The Administrative Adjudication Process for Substantiated Cases of Abuse and Neglect
Analysis for the need for the rule: To comply with paragraph a of subdivision 1 of section 494 of the Social Services Law and establish an appeals process by which the subject of the report is notified of the right to appeal and the procedure by which he or she may challenge the determination that a report is substantiated with a de novo standard of review.

Statutory Authority: Paragraph a of subdivision 1 of section 494 of the Social Services Law.

2) Addition of Part 701 to Title 14 NYCRR

Justice Center Criminal History Information Checks

Analysis for the need for the rule: To establish procedures so that providers are aware of statutory requirements relating to certain pre-employment checks in addition to criminal history information checks, such as the register of substantiated category one cases of abuse and neglect, established pursuant to section 495 of the Social Services Law, also known as the staff exclusion list; and the manner in which the Justice Center will review and evaluate criminal history information in relation to making suitability determinations for employment for those working with vulnerable populations as defined in subdivision 15 of section 488 of the Social Services Law.

Statutory Authority: Subdivision (5) of section 553 of the Executive Law; Section 16.33 of the Mental Hygiene Law; Section 31.35 of the Mental Hygiene Law; Subdivision (1) of section 378-a of the Social Service Law.

3) Addition of Part 702 to Title 14 NYCRR

Use of Social Security Numbers

Analysis for the need for the rule: This rule outlines the procedures for obtaining and using social security numbers to assist in verifying the identity of subjects of reports in the vulnerable persons central register individuals placed on the staff exclusion list and those individuals who must be screened against the staff exclusion list.

Statutory Authority: Sections 492, 493, 494, and 495 of the Social Services Law; paragraph (e) of subdivision (1) of section 96 of the Public Officers Law; paragraph (c)

of subdivision (1) one of section 94 of the Public Officers Law; paragraph (b) of subdivision (3) of section 399ddd of the General Business Law.

4) Addition of Part 703 to Title 14 NYCRR

Justice Center Facility and Provider Disclosure

Analysis for the need for the rule: To comply with subdivision 6 of section 490 of the Social Services Law, and to establish the process for requesters to request the disclosure of records of state certified or licensed facilities or provider agencies, as defined in subdivision (4) of section 488 of the Social Services Law, relating to the abuse or neglect of vulnerable persons. The Justice Center is required to review and forward such requests to the entities which may maintain the requested records and upon receipt of such records, if any, and make a determination regarding redactions of information contained in such records and exemptions from disclosure of those records consistent with Article 6 of the Public Officers Law.

Statutory Authority: Subdivision (6) of section 490 of the Social Services Law.

5) Addition of Part 704 to Title 14 NYCRR

Incident Review Committee Requirement

Analysis for the need for the rule: This rule identifies appropriate methods that may be used to attain compliance with the incident review committee requirement and further defines relevant factors to consider in determining whether it is appropriate to grant an exemption from the incident review committee requirement.

Statutory Authority: Section 490 of the Social Services Law.

RULE ADOPTED IN 1986 and amended 12/31/08; 03/11/09; and 11/28/18.

1) Amendment of Part 710 to Title 14 NYCRR

Procedures of the Surrogate Decision-Making Committees of the New York State
Commission on Quality of Care for the Mentally Disabled

Analysis for the need for the rule: To comply with Article 80 of the Mental Hygiene Law.

The Justice Center submitted a notice of proposed rulemaking amending Part 710 which was published in the State Register on August 1, 2018 in order to update and set forth uniform procedures for the surrogate decision-making committee established by article 80 of the Mental Hygiene Law.

Statutory Authority: Article 80 of the Mental Hygiene Law and Article 17-A and section 17-b of the Surrogates Court Procedure Act.