§ 4358. Protection of pupils. The department shall:

(a) Promulgate regulations concerning standards for the protection of children in residential care from reportable incidents in accordance with this section and article eleven of the social services law, including procedures for:

(i) consistent with appropriate collective bargaining agreements and applicable provisions of the civil service law, the review and evaluation of the backgrounds of and the information supplied by any person applying to be an employee, a volunteer or consultant, which shall include but not be limited to the following requirements: that the applicant set forth his or her employment history, provide personal and employment references and relevant experiential and educational information, and sign a sworn statement indicating whether the applicant, to the best of his or her knowledge, has ever been convicted of a crime in this state or any other jurisdiction;

(ii) establishing, for employees, relevant minimal experiential and educational qualifications, consistent with appropriate collective bargaining agreements and applicable provisions of the civil service law;

(iii) assuring adequate and appropriate supervision of employees, volunteers and consultants;

(iv) demonstrating by a residential facility or program that appropriate action is taken to assure the safety of the child who is alleged to have been subjected to a reportable incident in a report to the vulnerable persons' central register in accordance with section four hundred ninety-two of the social services law as well as other children in care, immediately upon notification that such a report of an allegation of a reportable incident has been made;

(v) removing a child when it is determined that there is risk to such child if he or she continues to remain within a facility or program; and

(vi) appropriate preventive and remedial action to be taken including legal actions, consistent with appropriate collective bargaining agreements and applicable provisions of the civil service law.

Such standards shall also establish as a priority requirements that: (A) subject to the amounts appropriated therefor, administrators, employees, volunteers and consultants receive training in at least the

following: child abuse prevention and identification, safety and security procedures, the principles of child development, the characteristics of children in care and techniques of group and child management including crisis intervention, the laws, regulations and procedures governing the protection of children from reportable incidents, and other appropriate topics, provided however, that the department may exempt administrators and consultants from such requirements upon demonstration of substantially equivalent knowledge or experience; and

(B) subject to the amounts appropriated therefor, children receive instruction, consistent with their age, needs and circumstances as well as the needs and circumstances of the facility, in techniques and procedures which will enable such children to protect themselves from reportable incidents.

The department shall take all reasonable and necessary actions to assure that employees, volunteers and consultants in residential facilities and programs are kept apprised on a current basis of all department policies and procedures relating to the protection of children from reportable incidents and shall monitor and supervise the provision of training to such administrators, employees, volunteers, children and consultants. Regulations and standards developed pursuant to this section shall, to the extent possible, be consistent with those promulgated by other state agencies for such purposes;

(vii) consistent with applicable collective bargaining agreements, assuring that an individual who has committed a category one offense, as defined in paragraph (a) of subdivision four of section four hundred ninety-three of the social services law, that is included on the vulnerable persons' central register is not hired or otherwise used in any position in which such individual would have regular and substantial contact with a service recipient in any program described in paragraph (e) of subdivision four of section four hundred eighty-eight of the social services law.

(b) Provide for the development and implementation of a plan of prevention and remediation with respect to a substantiated report of abuse or neglect. Such action shall include: (i) within ten days of receipt of such a substantiated report, development and implementation

of a plan of prevention and remediation to be taken with respect to a custodian or the residential facility in order to assure the continued health and safety of children and to provide for the prevention of future acts constituting reportable incidents; and (ii) development and implementation of a plan of prevention and remediation, in the event an investigation of a report of an allegation of abuse or neglect determines that a preponderance of the evidence of such allegation exists and such substantiated allegation may be attributed in whole or in part to noncompliance by the residential facility or program with provisions of this chapter or regulations of the department applicable to the operation of such residential facility or program. Any plan of prevention and remediation required to be developed pursuant to this subdivision by a facility supervised by the department shall be submitted to and approved by the department in accordance with time limits established by regulations of the department. Implementation of the plan shall be monitored by the department. In reviewing the continued qualifications of a residential facility or program for an operating certificate, the department shall evaluate such facility's compliance with plans of prevention and remediation developed and implemented pursuant to this subdivision.