§ 13.38 Additional duties of the office with respect to persons receiving transitional care.

(a) The office shall, in consultation with the department of social services, the education department, the office of mental health, and the council on children and families, develop a plan and implement procedures to help assure that all persons who are at the age or time to first qualify for transitional care, as described in section 13.37-a of this article, and for whom the office has accepted planning responsibilities, receive assistance in locating an appropriate and available residential placement or plan of services, within the state and within the system of care subject to the jurisdiction of the office, prior to the age or time at which they would otherwise have qualified for transitional care, if such individuals had become twenty-one or become ineligible for educational services prior to July first, nineteen hundred ninety-six. For purposes of this section, the age or time at which a person would qualify for transitional care is twenty-one for persons in foster care, and the end of the school year in which they become twenty-one for persons in residential schools.

(b) The office shall, in consultation with the department of social services, the education department, the office of mental health, and the council on children and families, develop a plan and implement procedures to help assure that all persons in transitional care receive assistance in locating appropriate and available placements within the adult care systems supervised or funded by the office, and to monitor the health and safety of persons receiving transitional funding pursuant to section 13.37-a of this article. In connection with the plans and procedures, the office shall establish standards governing the quality of care provided to such persons by the residential programs, including standards relating to the development and monitoring of written individual services plans for each such person, the involvement of the individual and, unless the individual objects, parents, guardians or other persons interested in the care of such persons in the development of written individual services plans, and the investigation of complaints relating to the quality of care or services provided to such persons. In appropriate circumstances, the office shall work with the individual and, unless the individual objects, the parents, guardians or other family members to help

determine what services would be necessary to enable the family to provide care for the person at their home or in an independent community setting, and shall provide or assist in arranging for those services to the extent funds are available for that purpose.

(c) The office shall enter into a memorandum of understanding with the department of social services to facilitate access by the office to child care facilities providing transitional care to young adults as may be necessary for the office to meet its responsibilities for monitoring the care of the young adults.

(d) The office shall enter into memorandums of understanding with the department of social services and the state education department to address any requirements of those departments relating to the removal of any person receiving transitional care from a child care facility or residential school whose continuation in such facility or school may adversely affect the health, safety or welfare of children residing in the facility or school. The memorandum shall set forth the procedures the office will follow in offering a placement or services in the adult care system, if necessary and appropriate, on an expedited basis, or any other procedures for assuring alternative care and services are available to the young adult, and the manner in which the department of social services or state education department will be informed of the progress of those efforts.

(e) Upon making a determination that a person who is receiving transitional care or care pursuant to subdivision (g) of this section can be appropriately cared for in an available adult care facility or service licensed, certified or approved by the office, and whose removal from a child care facility is not required on an expedited basis, the office shall notify in writing the person and the person's guardian, if one has been appointed, or another individual who has been involved in the care of the person and who may represent the person's interests, of the description of the proposed new placement, the availability of an administrative appeal to review the determination and of the need to request such an appeal in writing within thirty days of the notice. If the person, guardian or other individual requests an administrative appeal within the time required, the office shall schedule a hearing providing no less than ten days notice to the objecting party and the commissioner or his or her designee shall issue a written determination

to the objecting party within thirty days of the adjournment of the hearing, on whether the adult placement identified by the office is appropriate to the needs of the person and is available or will become available on an identified date certain. If the person, guardian or other individual does not request a hearing within the time required, or if the hearing results in a determination that the proposed adult services or placement is appropriate to the needs of the person and is available or will be available on an identified date certain, the office shall discontinue care funding for the person as of a date certain. The written determination shall be the final administrative remedy available and shall be subject to review in accordance with the provisions of article seventy-eight of the civil practice law and rules.

(f) In any case where an individual receiving transitional care is about to be transferred from one facility to another, a transfer plan shall be prepared by the sending facility and forwarded to the receiving facility, the individual and, unless the individual objects, the parents, guardian or other family members prior to the transfer. The transfer plan shall include any information necessary to facilitate a safe transfer, such as specific problems, a schedule for administering medications and behavior unique to the individual.

(g) The office may make payments necessary to maintain individuals described in subdivision (a) of this section in a child care facility or residential school on an emergency basis where circumstances temporarily prevent the transfer of individuals to adult services or placements.