§ 387. * Ineligibility for public foster care funds; fiscal penalties.

* NB Effective until June 30, 2027

* Public foster care funds; ineligibility.

* NB Effective June 30, 2027

* 1. The office of children and family services shall, by regulation, promulgate standards to determine that an authorized agency, or one or more of its programs or facilities, is ineligible to receive public foster care funds or should be assessed a fiscal penalty. Such standards shall include the following:

(a) lack of public need, including but not limited to geographic or programmatic need, for the agency or one or more of its programs or facilities;

(b) failure of the agency to promote the placement of children in permanent, safe family homes through return to the children's own families or through adoption, or other appropriate objectives for children, as measured by such factors as length of stay in foster care for children with similar personal and family characteristics; and

(c) a pattern or practice of repeated violation of the provisions of this chapter or of the regulations of the office of children and family services promulgated thereunder.

* NB Effective until June 30, 2027

* 1. The department shall, by regulation, promulgate standards to determine that an authorized agency, or one or more of its programs or facilities, is ineligible to receive public foster care funds. Such standards shall include the following:

(a) lack of public need, including but not limited to geographic or programmatic need, for the agency or one or more of its programs or facilities;

(b) failure of the agency to promote the placement of children in permanent family homes through return to the children's own families or through adoption, or other appropriate objectives for children, as measured by such factors as length of stay in foster care for children with similar personal and family characteristics; and

(c) a pattern or practice of repeated violation of the provisions of this chapter or of the regulations of the department promulgated thereunder which have occasioned the denial of reimbursement pursuant to section one hundred fifty-three-d or three hundred ninety-eight-b of

this chapter.

Such standards shall be developed with the participation of the child welfare standards advisory council established pursuant to section four hundred nine-h of this chapter and in consultation with public and voluntary authorized agencies, citizens' groups and concerned individuals and organizations including the state council on children and families.

* NB Effective June 30, 2027

* 2. A determination of ineligibility to receive public foster care funds or the assessment of a fiscal penalty shall be made upon a finding of substantial noncompliance with one or more of the standards developed and adopted pursuant to subdivision one of this section. Such findings and determination shall be made in accordance with the hearing procedures set forth in section four hundred sixty-d of this chapter relating to the revocation, suspension or limiting of operating certificates. Such determination shall be subject to judicial review in accordance with article seventy-eight of the civil practice law and rules.

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* 2. A determination of ineligibility to receive public foster care funds shall be made upon a finding of substantial noncompliance with one or more of the standards developed and adopted pursuant to subdivision one of this section. Such findings and determination shall be made in accordance with the hearing procedures set forth in section four hundred sixty-d of this chapter relating to the revocation, suspension or limiting of operating certificates. Such determination shall be subject to judicial review in accordance with article seventy-eight of the civil practice law and rules.

* NB Effective June 30, 2027

3. A determination of ineligibility to receive public foster care funds shall specify whether it applies to the agency generally or to a particular program or facility of the agency.

4. A social services official shall not purchase foster care from any authorized agency, or program or facility thereof, which has been

determined to be ineligible to receive public foster care funds in accordance with the provisions of this section. Any contract between a social services district and an authorized agency shall be deemed null and void to the extent that it is inconsistent with the provisions of this subdivision.

5. The commissioner shall report forthwith in writing, to the governor, the temporary president of the senate and the speaker of the assembly with respect to each case in which a determination of ineligibility to receive public foster care funds has been made pursuant to this section. Such report shall contain the name of the agency and the reason or reasons for the determination of ineligibility.

* 6. Any fiscal penalty received by the office of children and family services pursuant to this section shall be deposited to the credit of the children and family services quality enhancement fund established pursuant to section ninety-seven-yyy of the state finance law.

* NB Repealed June 30, 2027