

Appendix XI

Alternative Compliance and Policy Waiver Protocol

04/2008

“Alternative Compliance” is defined as a request for approval from the Child Welfare Agency Review Board to allow a licensee to deviate from the letter of a regulation. The licensee must demonstrate substantial compliance with the intent of the regulation. This includes, but is not limited to, regulations governing background checks and convictions for prohibited offenses.

“Policy Waiver” is defined as a request to deviate from the letter of the DCFS Policy, and procedures or standards. The DCFS Director approves all policy waiver requests.

Traffic violations, other than DUI or DWI, do not require a policy waiver or alternative compliance as they are dealt with through the vehicle safety program.

The procedures for requesting a Policy Waiver or an Alternative Compliance are the same, up until the point when the request is given to the Assistant Director of Community Services.

The procedures are as follows:

The FSW will determine if a Policy Waiver or Alternative Compliance should be requested based on their professional judgment. Issues to take into consideration on criminal convictions would include the time frame and circumstances of the offense. When an Alternative Compliance is requested for an excluded criminal offense, the police report and any other reports regarding any criminal charges or convictions must be attached as documentation.

If approval is recommended, the FSW will request a Policy Waiver or an Alternative Compliance using the CFS-509B and attaching all appropriate supporting documentation, as applicable:

- Three personal references
- Current home study
- Copy of the Central Registry Check, criminal background check and/or FBI check resulting in a hit.

Within 10 business days of receipt of the request, the Supervisor will determine if the requested Policy Waiver or Alternative Compliance is appropriate for approval. Issues to take into consideration would include the time frame and circumstances of the offense.

- If approved, the Supervisor will send it to the Area Manager;
- If denied, the Supervisor will notify the FSW and the family.

Within 10 business days of receipt of the request, the Area Manager will determine if the requested Policy Waiver or Alternative Compliance is appropriate for approval. Issues to take into consideration would include the time frame and circumstances of the offense.

- If approved, the Area Manager will send it to the Assistant Director of Community Services
- If denied, the Area Manager will return it to the Supervisor.
- If denied, the Supervisor will notify the FSW and the family.

At this point, the procedures for requesting a policy waiver differ from the procedures for requesting an alternative compliance. The Assistant Director for Community Services will determine if the requested Policy Waiver or Alternative Compliance should be approved or denied.

Policy Waivers

When a Policy Waiver has been requested, the Assistant Director of Community Services will, within 10 business days of receipt of the request:

- Deny any inappropriate request for a Policy Waiver and return it to the Area Manager; or
- Approve an appropriate request for a Policy Waiver and send to the DCFS Director for final approval or denial.
- The Director’s final decision will be conveyed to the FSW for appropriate action.

The following requires a Policy Waiver:

- Misdemeanor hot checks or shoplifting;
- Driving under the influence (DUI) or Driving while intoxicated (DWI)
- Any misdemeanor that appears on a local background check; or
- Any DCFS Policy.

Alternative Compliance

When an Alternative Compliance has been requested, the Assistant Director of Community Services will:

- Deny any inappropriate request for an Alternative Compliance and return it to the Area Manager; or
- Approve an appropriate request for an Alternative Compliance and send it to the CWAL Manager.

The CWAL Manager and staff will:

- Deny any inappropriate request for an Alternative Compliance; or
- Approve and send to the DCFS Director for review.

The DCFS Director will:

- Deny any inappropriate request for an Alternative Compliance and return the request to the Assistant Director of Community Services, or
- Approve the request and return it to the CWAL Manager and staff.

The CWAL Manager will place any approved request for an Alternative Compliance on the agenda of the next scheduled meeting of the Child Welfare Agency Review Board (CWARB).

The Foster or Adoptive Parent and FSW who made the original request for an Alternative Compliance will appear before the CWARB to answer questions.

The CWARB will give final approval or denial of the request for the Alternative Compliance. This includes the following requests for Alternative Compliance of issues dealing with foster or adoptive home approval:

- Families where one or both parents are over the age limit;
- Parents that do not meet the two-year marriage requirement, including single foster parents who get married;
- Any other CWAL requirement that cannot be met except through Alternative Compliance.

The following crimes require an Alternative Compliance from the CWARB:

Felony Hot Checks

Animal cruelty;

Manslaughter (misdemeanors only, regardless of when it occurred; felonies for this crime cannot receive an Alternative Compliance);

Negligent homicide (misdemeanors only, regardless of when it occurred; felonies for this crime cannot receive an Alternative Compliance);

False imprisonment;

Permanent detention or restraint;

Battery in the 1st, 2nd, or 3rd degree (misdemeanors only, regardless of when it occurred; felonies for this crime cannot receive an Alternative Compliance unless the conviction has been over 5 years ago);

Aggravated assault (misdemeanor only, regardless of when it occurred; felonies for this crime cannot receive an Alternative Compliance unless the conviction was over 5 years ago);

Assault in the 1st or 2nd degree (misdemeanors only, regardless of when it occurred; felonies for this crime cannot receive an Alternative Compliance unless the conviction was over 5 years ago);

Terroristic threatening in the 1st or 2nd degree;

Contributing to the delinquency of a minor;

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Interference with visitation or custody;

Engaging in conduct with respect to controlled substances (misdemeanors only, regardless of when it occurred; felonies for this crime cannot receive an Alternative Compliance unless the conviction was over 5 years ago);

Distribution of illegal substances to minors;

Public display of obscenity;

Prostitution or promoting prostitution in the 1st, 2nd, or 3rd degree;

Computer exploitation;

Criminal attempt, criminal complicity, criminal solicitation, or criminal conspiracy.

A CWAL Licensing Specialist will monitor DCFS for continued compliance with CWAL standards and issue a corrective action notice if any deficiencies are found. The notice will state the agreement regarding the corrective action and a reasonable time frame for the violation to be corrected.