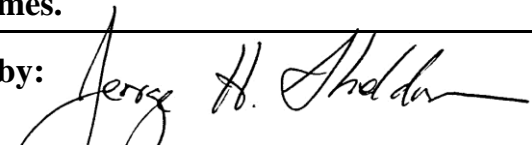


<b>OCFP</b> <b>Office</b> <b>of</b> <b>Child and</b> <b>Family</b> <b>Policy</b>	<b>Policy Interpretation</b>	
	<b>Index No: 2015.03</b>	<b>Issuance Date: November 2, 2015</b>
	<b>Origin of Request: Central Office of Licensing</b>	
	<b>Distribution: Department and POS Staff</b>	
	<b>Key Words: 89 IAC 402, Licensing Standards for Foster Family Homes.</b>	
	<b>Approved by:</b> 	

**Question:** When the above-ground pool does not have at least 4-foot high non-climbable sidewalls (four feet above ground), can a fence that is at least five feet high and completely encloses the yard meet the requirement for a fence at least 36 inches away from the pool's side wall?

**Applicable To:** Department and POS staff

**Policy Citations:** Section 402.8 General Requirements for the Foster Home

**d) Water Hazards Protection**

- 2) All above-ground pools shall have non-climbable sidewalls that are at least 4 feet high **or** shall be enclosed with a 5-foot fence that is at least 36 inches away from the pool's side wall and secured with a locked gate. When the pool is not in use, pool's steps shall be removed or the pool shall be otherwise protected to insure the pool cannot be accessed.

**Discussion:** The intent of the cited policy is to better ensure that any above-ground swimming pool at a foster family home does not become a water hazard. If the non-climbable walls of an above-ground pool are not at least four feet above the ground, the foster parent must completely enclose the pool or place a barrier that complies with US Consumer Product Safety Commission guidelines on top of the pool to raise the non-climbable wall height to 4 feet. The fence must be at least five feet in height and completely surround the pool.

A fence around the perimeter of yard that contains the pool obstructs access to pool from neighboring yards, but it does nothing to prevent children within the yard from gaining access to the pool. If the pool's non-climbable sidewalls are lower than 4 feet high, it must be enclosed by a fence that completely surrounds the pool within the yard or a barrier that complies with



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US Consumer Product Safety Commission guidelines must be placed on top of the pool to raise the wall height to 4 feet. A child may accidentally fall into or readily climb an above-ground pool with sidewalls lower than 4 feet high that is not itself enclosed, regardless of the perimeter fence surrounding the whole property.

The stipulation that the fence be at least 36 inches from the swimming pool is to help prevent children from gaining access into the pool and prevent those in the pool from climbing onto the fence. The intent is not that a perimeter yard fence could be used to meet the 36 inch rule.

**Response:**

**Any above-ground pool in a foster family home that has non-climbable walls lower than four feet above the ground must itself be enclosed by a five foot fence or have a barrier that complies with US Consumer Product Safety Commission guidelines placed on top of the pool to raise the wall height to 4 feet. A five foot perimeter fence enclosing the yard does not replace the requirement of a 5-foot fence or other barrier to prevent access to an above ground pool. The fence must be at least 36 inches away from the above-ground pool, encompass the pool area, and act as a barrier to prevent children from gaining unsupervised access to the pool. This interpretation applies to existing pools.**

*This policy interpretation is made under the provisions of the cited licensing standards in 89 Illinois Administrative Code and the Child Care Act of 1969 [225 ILCS 10] in effect on its issuance date. This policy interpretation, in whole or in part, is invalid if it conflicts with statutory or licensing standards changes that are made subsequent to its issuance date.*