

COMMERCE & HUMAN RESOURCES COMMITTEE

ADMINISTRATIVE RULES REVIEW

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2012 Legislative Session

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IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.01 - CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-1102 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 16-1629, 16-2102, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code; also Section 16-1506(3), Idaho Code, regarding certified adoption professionals.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Section 16-1506(3), Idaho Code, mandates Department oversight of the certified adoption professional program and specifies the fees charged for review of the program's work product. During the 2011 legislative session, the Department proposed statute changes to eliminate the certified adoption professional program. The Senate Health and Welfare Committee declined to proceed with the legislation and asked the Department to consider changes to the current program to increase the quality of services it provides. In response, a stakeholder meeting was held in June 2011, at which time significant changes in this chapter of rules were identified as necessary to increase certification and practice requirements for certified adoption professionals.

This docket makes the identified rule changes to this chapter. In addition to addressing issues regarding certified adoption professionals, the proposed changes will positively impact the Department's child welfare program by bringing adoption home study and placement rules into alignment with the Department's rules regarding requirements for foster care licensing, as well as describe the Department's process for selecting adoptive placements for children in foster care.

Summary of proposed changes:

Outline the specific information needed from an applicant interested in becoming an adoptive parent (through the Department or a certified adoption professional), condense the information currently found elsewhere in adoption rules and document requirements that bring the process into alignment with foster care licensing rules as well as clarify the re-application process.

Clarify the responsibilities of the Department or certified adoption professional and the adoptive applicant during the completion of the adoption home study and specify mandatory elements of the home study. These changes bring home study requirements into alignment with foster care home study requirements.

Clarify the length of time an adoption home study is valid for use by an adoptive family, and the process for updating the home study.

Update the Department's process for selecting adoptive placements for children in foster care so that the rule will be consistent with practice.

Make wording changes consistent with the Department's shift in oversight responsibilities for the certified adoption professional program from regional offices to the Department's Division of Family and Community Services.

Add additional requirements for Department approval of a certified adoption professional.

Give the Department the ability to limit a certified adoption professional's scope of work, and increase the Department's ability to make changes to an individual's certification, based on his compliance with the rules.

Clarify the minimum standards of practice required of certified adoption professionals.

Specify the responsibility of the Department in providing oversight services to certified adoption professionals; and

Make other minor, non-substantive clerical corrections to this chapter of rules, as needed.

In addition, Section 000, regarding the legal (statutory) authority for this chapter, is being amended at the recommendation of the Legislative Services Office (LSO). A citation to Section 56-1007, Idaho Code, is being added. This statute provides the general statutory authority for the Department to charge reasonable fees for its services and thereby provides the statutory authority for the new fees being added to this chapter for Certified Adoption Professionals.

The text of the pending fee rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the [September 7, 2011, Idaho Administrative Bulletin, Vol. 11-9, pages 85 through 99.](#)

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

Under the proposed rule, Certified Adoption Professionals must apply for renewal of their certificate every two (2) years at a cost of \$100. If the application is denied, the applicant will be reimbursed \$75, and a \$25 processing fee will be charged.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

The proposed rule changes are projected to result in a total increase of approximately \$1500 (per year) in fees collected through the certified adoption professional program, once fully implemented. Full implementation will take three (3) years since there is currently a three-year relicensing cycle. Income received through fee increases will help offset the costs incurred by Department oversight of the program.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Stephanie Miller at (208) 334-5697.

DATED this 17th day of November, 2011.

Tamara Prisock
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THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 16-1629, 16-2102, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, and 56-1004A, Idaho Code, and Section 16-1506(3), Idaho Code, regarding certified adoption professionals.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2011.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Section 16-1506(3), Idaho Code, mandates Department oversight of the certified adoption professional program and specifies the fees charged for review of the program's work product. During the 2011 legislative session, the Department proposed statute changes to eliminate the certified adoption professional program. The Senate Health and Welfare Committee declined to proceed with the legislation and asked the Department to consider changes to the current program to increase the quality of services it provides. In response, a stakeholder meeting was held in June 2011, at which time significant changes in this chapter of rules were identified as necessary to increase certification and practice requirements for certified adoption professionals.

This docket makes the identified rule changes to this chapter. In addition to addressing issues regarding certified adoption professionals, the proposed changes will positively impact the Department's child welfare program by bringing adoption home study and placement rules into alignment with the Department's rules regarding requirements for foster care licensing, as well as describe the Department's process for selecting adoptive placements for children in foster care.

Summary of proposed changes:

- 1. Outline the specific information needed from an applicant interested in becoming an adoptive parent (through the Department or a certified adoption professional), condense the information currently found elsewhere in adoption rules and document requirements that bring the process into alignment with foster care licensing rules as well as clarify the re-application process.**
- 2. Clarify the responsibilities of the Department or certified adoption professional and the adoptive applicant during the completion of the adoption home study and specify mandatory elements of the home study. These changes bring home study requirements into alignment with foster care home study requirements.**
- 3. Clarify the length of time an adoption home study is valid for use by an adoptive family, and the process for updating the home study.**
- 4. Update the Department's process for selecting adoptive placements for children in foster care so that the rule will be consistent with practice.**
- 5. Make wording changes consistent with the Department's shift in oversight responsibilities for the certified adoption professional program from regional offices to the Department's Division of Family and Community Services.**
- 6. Add additional requirements for Department approval of a certified adoption professional.**
- 7. Give the Department the ability to limit a certified adoption professional's scope of work, and increase the Department's ability to make changes to an individual's certification, based on his compliance with the rules.**
- 8. Clarify the minimum standards of practice required of certified adoption**

professionals.

9. Specify the responsibility of the Department in providing oversight services to certified adoption professionals; and
10. Make other minor, non-substantive clerical corrections to this chapter of rules, as needed.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

Under the proposed rule, Certified Adoption Professionals must apply for renewal of their certificate every two (2) years at a cost of \$100. If the application is denied, the applicant will be reimbursed \$75, and a \$25 processing fee will be charged.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

The proposed rule changes are projected to result in a total increase of approximately \$1500 (per year) in fees collected through the certified adoption professional program, once fully implemented. Full implementation will take three (3) years since there is currently a three-year relicensing cycle. Income received through fee increases will help offset the costs incurred by Department oversight of the program.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted in June of 2011 with interested stakeholders, including certified adoption professionals. A "Notice of Intent to Promulgate Rules - Negotiated Rulemaking" was not published in the Bulletin.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference into these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Stephanie Miller at (208) 334-5697.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2011.

DATED this 9th day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0601-1102

000. LEGAL AUTHORITY.

The Idaho Legislature has delegated to the Department, or the Board of Health and Welfare, or both jointly, the responsibility to establish and enforce such rules and methods of administration as may be necessary or proper to administer social services to people who are in need, under the following Sections: 16-1629, 16-2102, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, ~~and~~ 56-1004A, ~~and~~ 56-1007, Idaho Code. ~~(5-8-09)()~~

(BREAK IN CONTINUITY OF SECTIONS)

750. APPLICATION TO BE ADOPTIVE PARENT(S).

Each field office is responsible for compiling the names and addresses of adoptive applicant(s), along with the dates of inquiry and membership in an Indian tribe, if any. A database or register must be maintained in order to assure the orderly completion of home studies. (5-8-09)

~~01. *Interviews with Potential Applicant(s). Initial interviews with groups of applicants or with individual families will be scheduled promptly and will be used to explain Department policies and procedures regarding adoptive placement, the kinds of children available, and the nature of the home study.*~~ **Initial Application.** Each adoptive applicant must: ~~(5-8-09)()~~

~~**a.** Cooperate with and allow the Department, or certified adoption professional, to determine compliance with these rules to conduct an adoption home study; ()~~

~~**b.** Inform the Department, or certified adoption professional, if the applicant has previously applied to become a foster or adoptive parent, is currently licensed as a foster parent, or has been involved in the care and supervision of children or adults; ()~~

~~**c.** Provide a medical statement for each applicant, signed by a qualified medical professional, within the twelve (12) months period prior to application for adoption, indicating the applicant is in such physical and mental health so as to not adversely affect either the health or quality of care of the adopted child; ()~~

~~**d.** Provide the name of, and a signed release to obtain the following information about, each member of the household; ()~~

~~**i.** Admission to, or release from, a facility, hospital, or institution for the treatment of an emotional, intellectual, or substance abuse issue; ()~~

~~**ii.** Outpatient counseling, treatment, or therapy for an emotional, intellectual, or substance abuse issue. ()~~

~~**e.** Provide three (3) satisfactory references, one (1) of which may be from a person related to the applicant. Each applicant must provide additional references upon the request of the Department or certified adoption professional; ()~~

f. All applicants for adoption and other adult members of the household must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks" and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," Section 404. ()

02. ~~Screening of Adoptive Applicants.~~ ~~Screening of the adoptive applicants will assist the agency or family services worker in assessing, on an individualized basis, the prospective adoptive parent(s)' suitability to care for a specific child, or general description of children through:~~ **Psychological Evaluation.** An evaluation by a psychologist or a psychiatrist can be required by the family services worker or certified adoption professional when an applicant has received or is currently receiving treatment for psychological problems or mental illness or when the family services worker, or certified adoption professional, in consultation with his supervisor, determines that there appear to be emotional problems in the family that merit further evaluation. (5-3-03)()

~~a.~~ The family's ability to form relationships and to bond with a specific child, or general description of children; (3-18-99)

~~b.~~ The family's ability to help the child integrate into the family; (3-18-99)

~~c.~~ The family's ability to accept the child's background and help the child cope with his or her past; (3-18-99)

~~d.~~ The family's ability to accept the behavior and personality of a specific child or general description of children; (3-18-99)

~~e.~~ The family's ability to nurture and validate a child's particular cultural, racial, and ethnic background; and (3-18-99)

~~f.~~ The family's ability to meet the child's particular educational, developmental or psychological needs. (3-18-99)

03. **Orientation of Potential Applicants.** Initial meetings with groups of applicants, or with individual families, must be scheduled promptly by the Department or the certified adoption professional, whichever received the inquiry and initial application from the family. These initial meetings must be used to explain policies and procedures regarding adoptive placement, the kinds of children available, and the nature of the home study. ()

04. **Denial of Application.** Following an initial interview, an applicant who does not appear to meet the Department's requirements at the time of initial application may be denied a full home study. The family will be advised why they were ineligible for a full home study and notice provided to the applicant of his right to appeal this decision. Upon resolution of the factors leading to the denial, the applicant may again file an application and receive a home study. ()

05. **Application for Subsequent Adoptions.** Following the finalization of an adoption, a family may apply to be considered for another placement. ()

a. Adoptive parents who have experienced a successful adoption and wish to reapply must complete an adoption application and financial statement, complete a Criminal History and

Background Check, and submit medical reports and three (3) personal references. One (1) reference may be from a person related to the applicant. When requested by the Department, an applicant must provide additional references. ()

b. The prospective adoptive family will assist in amending the original adoption study to include information concerning the acceptance and adjustment of the child previously placed in the home and their request for another placement. ()

c. Prospective adoptive parent(s) applying for subsequent adoption with an agency with whom they have maintained a foster care license since their previous adoption may have the requirement for a new Criminal History and Background Check, medical reports and personal references waived by the agency. ()

751. -- ~~759~~61. (RESERVED)

~~760. PSYCHOLOGICAL EVALUATION.~~

~~An evaluation by a psychologist or a psychiatrist can be required by the family services worker when an applicant has received or is currently receiving treatment for psychological problems or mental illness or when the family services worker, in consultation with his supervisor, determines that there appear to be emotional problems in the family that merit further evaluation. (3-20-04)~~

~~761. DENIAL OF APPLICATION.~~

~~Following an initial interview, an applicant who does not appear to meet the Department's requirements at the time of initial application may be denied a full home study. The family will be advised why they were ineligible for a full home study and provide notice to the applicant of their right to appeal this decision. Upon resolution of the factors leading to the denial, the applicant may again file an application and receive a home study. (5-8-09)~~

762. COMPLETING THE ADOPTION HOME STUDY.

~~Following the initial interview, the application, medical forms, list of items to be verified and other pertinent information needed to complete the adoptive home study will be given to the prospective adoptive parent(s). Upon application by a potential adoptive family, the family services worker or certified adoption professional will conduct the pre-placement adoptive home study and issue a recommendation. The home study must be completed prior to placement of any child for adoption in that home. (5-8-09)()~~

01. Interviews. Family assessment interviews as well as individual interviews must be held with the prospective adoptive parent(s). (3-20-04)

02. ~~Home Study of Applicant.~~ ~~A full home study must then be made to determine the ability of the applicant to meet the needs of children available for adoption, and the specific characteristics of children the applicant indicates would be most suitably placed in the home. For an Indian child, the study will also determine the prevailing social and cultural standards of the Indian community in which the parent(s) or extended family resides or maintains social and cultural ties.~~ **Content.** Adoption home studies for foster care, special needs, independent, relative, and step-parent adoptions must include an assessment of the following: (5-8-09)()

a. Names, including maiden or other names used by the applicant(s); ()

b. Legal verification that the person(s) adopting is at least fifteen (15) years older than the child, or twenty-five (25) years of age or older, except in cases where the adopting person is a spouse of the child's parent, must be accomplished by: ()

i. Viewing a certified copy of the birth certificate filed with the Bureau of Vital Statistics; or ()

ii. Viewing one (1) of the following documents for which a birth certificate was presumably required prior to its issuance, such as: armed services or other governmental identification, including a valid Idaho driver's license, passport, visa, alien identification cards, or naturalization papers. ()

iii. If verifying documentation is not available, the report must indicate the date and place of birth and reason for lack of verification. ()

c. Verification that the family has resided and maintained a dwelling within the State of Idaho for at least six (6) consecutive months prior to the filing of the petition; ()

d. Adequacy of the family's house, property, and neighborhood for the purpose of providing adoptive care as determined by on-site observations; ()

e. Educational background of the applicant(s); ()

f. A statement of employment, family income, and financial resources, including access to health and life insurance and the family's management of these resources; ()

g. Current and historical mental illness, drug or alcohol abuse, and medical conditions and how they may impact the adoptive parent(s) ability to care for an adopted child; ()

h. Previous criminal convictions and history of child abuse and neglect; ()

i. Family history, including childhood experience and the applicant(s) parents' methods of discipline and problem-solving; ()

j. Verification of marriages and divorces; ()

k. Decision-making, communication, and roles within the marital relationship, if applicable; ()

l. The names, ages, and addresses of all biological and adopted children currently residing inside or outside the home. Information regarding the current adjustment and special needs of the applicant(s) children; ()

m. The religious and cultural practices of the family, including their ability to nurture and validate a child's particular cultural, racial, religious, and ethnic background; ()

n. For an Indian child, the study will also determine the prevailing social and cultural standards of the Indian community in which the parent(s) or extended family resides or maintains social and cultural ties. ()

o. Individual and family functioning including inter-relationships with each member of the household and the family's ability to help a child integrate into the family; ()

p. Activities, interests, and hobbies; ()

q. Child care and parenting skills, including historical and current methods of discipline used in the home; ()

r. Reasons for applying for adoption; ()

s. The family's prior and current experiences with adoption, understanding of adoption, and ability to form relationships and bond with a specific child or general description of children; ()

t. The attitudes toward adoption by immediate and extended members of the family and other persons who reside in the home; ()

u. Specifications of the child preferred by the family that include the number of children, age, gender, race, ethnic background, social, emotional, and educational characteristics. The family's ability to accept the behavior and personality of a specific child (if known) or general description of children and their ability to meet the child's particular educational, developmental, and psychological needs; ()

v. Emotional stability and maturity in dealing with the needs, challenges, and related issues associated with the placement of a child into the applicant(s) home; ()

w. The family's attitude about an adopted child's birth family including; ()

i. Their ability to accept a child's background and help the child cope with his or her past; and ()

ii. Their willingness to work with the child's family or tribe; ()

x. Training needs of the applicant(s); and ()

y. A recommendation regarding the family's ability to provide adoptive care to a specific child (if known) or general description of children. ()

~~03. Timeframes for a Completed Home Study. Once the adoptive home study has been initiated, the completion of the home study must occur within three (3) months. (5-8-09)~~

763. APPLICANT PRE-ADOPTIVE PARENT RESPONSIBILITIES.

The pre-adoptive applicant parent is responsible to keep the agency or Certified Adoption Professional that completed the home study informed of any changes in the family's

circumstances, or of any subsequent decision against adoption. (5-8-09)()

764. ~~PRE-PLACEMENT~~ ADOPTIVE HOME STUDY.

~~Upon application by a potential adoptive family, the family services worker will conduct the pre-placement adoptive home study and issue the verification of positive recommendation where appropriate. The home study must be completed prior to placement of any child for adoption in that home. An adoption home study is valid for the purposes of new adoptive placement for a period of one (1) year following the date of completion. Upon completion of an adoptive placement agreement, an adoption home study remains valid for a period of two (2) years from the date of completion for the purpose of finalizing the adoption of the child(ren) for whom the adoptive placement agreement was written.~~ (5-8-09)()

765. -- 769. (RESERVED)

770. CLOSURE OF ADOPTIVE HOME STUDIES.

~~Pre-placement home studies for Department adoptions, independent, relative and step-parent adoptions must document the following: Upon pre-adoptive placement of a child or children in the home of a pre-adoptive parent, the parent's adoption home study closes for the placement of an additional child or children for the purpose of adoption until a home study update is completed.~~ (3-30-07)()

~~**01. Residence.** References who can verify that the family has resided and maintained a dwelling within the State of Idaho for at least six (6) consecutive months prior to the filing of the petition. (3-18-99)~~

~~**02. Verification of Ages of Adopting Parent(s).** Legal verification that the person(s) adopting is at least fifteen (15) years older than the child or twenty-five (25) years of age or older, except in cases where the adopting person is a spouse of the child's parent, must be accomplished by: (3-30-07)~~

~~**a.** Viewing a certified copy of the birth certificate filed with the Bureau of Vital Statistics; or (3-18-99)~~

~~**b.** Viewing one (1) of the following documents for which a birth certificate was presumably required prior to its issuance, such as armed services or other governmental identification, including a valid Idaho driver's license, passport, visa, alien identification cards or naturalization papers. (3-30-01)~~

~~**c.** If verifying documentation is not available, the report must indicate the date and place of birth and reason for lack of verification. (3-30-07)~~

~~**03. Medical Statement.** A medical statement for each applicant, signed by a qualified medical professional, within the twelve (12) month period prior to application to be an adoptive parent, indicating the applicant is in such physical and mental health so as to not adversely affect either the health or quality of care of the adopted child. (3-30-07)~~

~~**04. References.** The applicant must provide at least three (3) satisfactory references, one (1) of which may be from a person related to the applicant. An applicant must provide~~

~~additional references upon the request of the children's agency. (5-8-09)~~

771. ~~ANNUAL~~ HOME STUDY UPDATE.

An adoptive home study must be updated on an annual basis. A current home study is defined as a home study completed within the previous twelve (12) months. Home study updates must include the following: (5-8-09)()

01. All Changes to the Information Contained in the Initial Adoption Home Study and Subsequent Home Study Updates. ()

02. All Information on any Changes in Family Functioning and Inter-Relationships. ()

03. Any Information Regarding Circumstances Within the Family that may Adversely Impact a Child Placed for Adoption. ()

04. A Home Study Update Completed for the Purpose of Adoptive Placement of an Additional Child or Children in the Home. A home study update completed for the purpose of adoptive placement of an additional child or children in the home where a child or children are already placed for adoption and that adoption has not yet finalized must include agreement for the placement of the additional child or children by the individual or agency responsible for the placement of the initial child or children, and the individual or agency responsible for the additional child or children. ()

~~772. -- 779. (RESERVED)~~

~~**780. FACTORS TO BE CONSIDERED IN DETERMINING SUITABILITY OF ADOPTIVE PARENTS.**~~

~~**01. Indian Child.** For an Indian child, absent good cause to the contrary, the following preferences for placement under the Indian Child Welfare Act must be followed:~~ (5-8-09)

~~**a.** Extended family;~~ (3-18-99)

~~**b.** Other members of the child's tribe; or~~ (3-18-99)

~~**c.** Other Indian families.~~ (3-18-99)

~~**02. Needs of Adoptive Child.** The primary factor in the review of a prospective adoptive family's eligibility is the ability to protect and promote the best interests of a child to be placed in their home.~~ (3-20-04)

~~**03. Availability of Prospective Adoptive Families.** The Department will not delay or deny the placement of a child with an approved family that is located outside of the jurisdiction responsible for the care and planning for the child.~~ (3-20-04)

~~**781.—789. (RESERVED)**~~

(BREAK IN CONTINUITY OF SECTIONS)

800. PLACEMENT OF THE CHILD.

~~The field office must provide full confidential background information and discuss the child's history fully with the prospective adoptive parent(s) prior to the placement. The disclosure of background information must be confirmed at the time of placement by a written statement from the family services worker to the prospective adoptive family which they will be asked to acknowledge and sign. A copy of this statement must be provided to the adoptive family and one (1) copy will be kept in the child's permanent record. The child's record will be reviewed by the placing region's Program Manager or designee prior to being forwarded to the supervising family services worker. The child's case record must be complete and transferred to the supervising family services worker at the time of placement.~~ Adoptive placement of a child in the custody or guardianship of the Department will be determined as follows: (5-8-09)()

01. Factors to be Considered in Determining Suitability of Adoptive Placements. ()

a. For an Indian child, absent good cause to the contrary, the following preferences for placement under the Indian Child Welfare Act must be followed: ()

i. Extended family; ()

ii. Other members of the child's tribe; or ()

iii. Other Indian families. ()

b. The primary factor in the review of a prospective adoptive family's eligibility is the ability to protect and promote the best interests of a child to be placed in their home. ()

c. The Department will not delay or deny the placement of a child with an approved family that is located outside of the jurisdiction responsible for the care and planning for the child. ()

02. Selection of Adoptive Placement. The adoptive placement of a child in the custody or legal guardianship of the Department will be selected using a committee process of no less than three (3) individuals and be approved by a field program manager as described by the practice standards of the Department. ()

03. Disclosure. The field office must provide full confidential background information and discuss the child's history fully with the prospective adoptive parent(s) prior to the placement. The disclosure of background information must be confirmed at the time of placement by a written statement from the family services worker to the prospective adoptive family, which they will be asked to acknowledge and sign. A copy of this statement must be provided to the adoptive family and one (1) copy will be kept in the child's permanent record. ()

(BREAK IN CONTINUITY OF SECTIONS)

861. PROGRESS REPORTS.

Progress reports will be prepared regularly and will be based on the family services worker's or certified adoption professional's findings. ~~(3-30-07)~~()

01. Initial and Subsequent Reports. Progress reports must be made at intervals not to exceed thirty (30) days. These reports will include the family services worker's or certified adoption professional's observation of each child and the prospective adopting parent(s), with emphasis on: ~~(3-29-10)~~()

- a. Special needs, special circumstances, or both, of each child at time of placement; (3-29-10)
- b. Services provided to each child and the family during the report period; (3-29-10)
- c. Services to be provided to each child and the family; (3-29-10)
- d. General appearance and adjustment of each child during the report period (may include eating, sleep patterns, responsiveness, bonding); (3-29-10)
- e. Adjustment of each child to all of the following that apply: school, daycare, and day treatment program; (3-29-10)
- f. Health and developmental progress, and medical practitioner information for each child; (3-29-10)
- g. Whether each child has been accepted for coverage on the family's medical insurance, when coverage begins, and whether there will be any limitations, exclusions, or both; (3-29-10)
- h. Family's adjustment to adoptive placement; (3-18-99)
- i. Adoption assistance negotiation; (3-29-10)
- j. Changes in family situation or circumstances; (3-18-99)
- k. Areas of concern during the report period as addressed by each child and the adoptive parent(s); and (3-29-10)
- l. The date of the next required six (6) month review or twelve (12) month permanency hearing. (3-29-10)

02. Monthly Foster Care Payments -- Pre-Adoptive Placement. To receive Title IV-E monthly foster care payments during the period pending completion of adoption, the

prospective adoptive parent(s) must have a foster care license. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

863. INVESTIGATION OF PETITION TO ADOPT AND REPORT TO THE COURT.

According to Section 16-1506, Idaho Code, an investigation regarding the allegations stated in the petition and subsequent written report of findings must be filed with the court unless the investigation is waived by order of the court. The prospective adoptive family's pre-placement home study will be filed at the same time as the written report of investigation. If the family services worker, licensed child placing agency staff, or certified adoption professional is unable to complete the study within thirty (30) days, an extension of time must be requested in writing of the court, stating the reasons for the request. If the worker *suspects* has reason to believe that the child *is of* may be an Indian *heritage* child and the child's tribe or the Secretary of the Interior has not *been notified* received written Notice of Pending Proceedings, the worker must inform the court and the petitioner's attorney and the independent agency of the need to comply with the Indian Child Welfare Act. This adoption report to the court must address the following:

(5-8-09)()

01. Legal Availability of the Child. It is the responsibility of the petitioners, through their attorney, to present documentary evidence to the court so the judge can examine it and be satisfied that the identity, birthdate, and parentage of the child are as represented in the petition. The family services worker or certified adoption professional will interview the family and any other person(s) having knowledge in the matter, review all documentary evidence presented by the petitioner(s), record the information and source of the information, noting any discrepancies. Such documentary evidence must include the following:

(5-8-09)()

- a. The birth certificate of the child; (3-20-04)
- b. The consent(s) of the child's parent(s) to terminate their parental rights, termination decrees for any parent(s) whose parental rights have been terminated involuntarily by the court, and documentation of marriage and divorce; (3-20-04)
- c. If the child is an Indian child, a copy of the Notice of Pending Proceedings for Termination of Parental Rights, and the return receipts showing that the notice was received by the Indian child's parent(s) or Indian custodian(s), and the child's tribe ~~have received notice of their right to intervene;~~ and (5-3-03)()
- d. Consent to adoption has been secured for all persons from whom it is required, including a legal guardian(s), to make the child legally available for adoption; (3-20-04)()
- e. The death certificate of a deceased parent; (3-20-04)
- f. Verification from the Bureau of Vital Statistics of the registry of any putative father; and (3-20-04)

g. The Interstate Compact on the Placement of Children Form 100-A, for a child born outside of the state of Idaho, to determine if required state authorizations have been given, or if the Compact does not apply. (3-20-04)

02. Needs of the Child. The report to the court must address the needs of the child, including but: (5-8-09)

a. The history of the child and the child's birth family; (3-18-99)

b. The family history for a child who has been previously adopted, should include information about the child's previous adoptive family and the circumstances of the disruption; (3-20-04)

c. A detailed description of the circumstances that brought about the placement with the prospective adoptive family; (3-20-04)

d. The state of Idaho Social, Medical, and Genetic History forms must be completed and submitted to the court, showing reasonably known or available medical and genetic information regarding both birth parents and the child, as well as reasonably known or available providers of medical care and services to birth parents and child; and (5-8-09)

e. The appropriateness of the prospective adoptive family for the particular child or children who are the subject of the petition. (3-20-04)

03. Degree of Relationship of the Child to Petitioners. In those cases where the court has ordered an investigation of petitions to adopt by relatives or step parents, the study must record such alleged relationship and specify the documentary evidence the petitioners have of that relationship. (5-8-09)

04. Evaluation and Recommendation. The family services worker or certified adoption professional must provide a brief summary of data presented in prior sections and the pre-placement home study, supporting the recommendation regarding the adoption. ~~(5-8-09)~~()

05. Medical Information. A copy of medical and genetic information compiled in the investigation must be made available to the prospective adoptive family by the family services worker or certified adoption professional prior to the final order of adoption. (5-8-09)

06. Confidentiality of Information. The family services worker must exercise caution in discussing identifying information and avoid revealing that information in the petition while attempting to secure the necessary facts for the study. (5-8-09)

07. Financial Accounting. A financial accounting must be approved by the court, of any financial assistance given to the birth parent(s) which exceeds five hundred dollars (\$500), in accordance with Section 18-1511, Idaho Code. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

~~872. PREFERENCES FOR TEMPORARY PLACEMENT—INDIAN CHILD.~~

~~Preferences for placement of an Indian child must be observed in the temporary and permanent placement unless the child is being returned to the parent(s) or Indian custodian(s) from whose custody the child was originally removed. (5-8-09)~~

~~8732. -- 87980.(RESERVED)~~

~~880. APPLICATIONS FOR SUBSEQUENT ADOPTIONS.~~

~~When adoptive applicants on the Department's list of families waiting to adopt receive a child, either through the Department or as an independent placement, their home study will be closed. Following the finalization of the adoption, the family may again apply to be considered for another placement. (3-30-01)~~

~~01. Reapplication Process. Adoptive parent(s) who have experienced a successful adoption and wish to reapply must complete an adoption application and financial statement, and submit medical reports and three (3) references. One (1) reference may be from a person related to the applicant. When requested by the Department, an applicant must provide additional references. (5-8-09)~~

~~02. Update of Adoption Study. The prospective adoptive family will assist in amending the original adoption study to include information concerning the acceptance and adjustment of the child previously placed in the home and their request for another placement. (5-8-09)~~

(BREAK IN CONTINUITY OF SECTIONS)

889. CERTIFIED ADOPTION PROFESSIONAL REQUIREMENTS.

An applicant requesting to become a Certified Adoption Professional must meet the following criteria: (3-20-04)

01. College Degree. A minimum of a bachelor's degree in a field deemed related to adoptions by the Department's Child and Family Services Program, such as social work, psychology, family counseling or other related behavioral science; (5-8-09)

02. Adoption Training. Must have completed a minimum of twenty (20) hours of training in adoption services within the last four (4) years; ~~and (5-8-09)()~~

03. Department Criminal History and Background Clearance. Must complete a Department criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks," and receive a clearance; (5-8-09)

~~04. Designee of a Tribe. Individuals designated by the Indian child's tribe to perform these duties are not subject to the provisions in Subsections 889.01 and 889.03 of this rule.~~

License. A current license to practice social work in the state of Idaho; ~~(5-8-09)~~()

05. Experience. A minimum of two (2) years experience as a paid full-time employee providing adoption services with a licensed private or public children's agency; ()

06. References. Three (3) satisfactory references, one (1) of which must be from a previous employer for whom the applicant worked providing adoption services; ()

07. Insurance. Verification of malpractice insurance that will provide coverage for the applicant's work as a certified adoption professional; and ()

08. Application Fee. An application fee of one hundred dollars (\$100) to be reimbursed, less a twenty-five dollar (\$25) processing fee, in the event the application is denied. ()

890. TERMS OF CERTIFICATION FOR ADOPTION PROFESSIONALS.

01. Certification. Certification for adoption professionals will be completed through the ~~regional Child and Family Services office~~ Division of Family and Community Services and will be effective for a period of ~~four~~ two (~~4~~2) years. ~~(5-8-09)~~()

02. Types of Certification. Certified adoption professionals may be certified for any, some, or all of the following services: ()

a. Adoption home studies for families seeking domestic infant adoption. ()

b. Adoption home studies for families seeking domestic special needs adoption. ()

c. Adoption home studies for families seeking step-parent or relative adoption.()

d. Court ordered investigations for termination of parental rights for domestic private or independent adoptions. ()

e. Court reports for domestic private or independent adoptions. ()

f. Supervision of adoptive placements for domestic private or independent adoptions. ()

03. Limits of Certification. Certified adoption professionals may not provide the following services: ()

a. Birth parent education or counseling. ()

b. Services related to international adoption. ()

024. Recertification. Certified adoption professionals must apply for renewal of their certificate every ~~four~~ two (~~4~~2) years and must provide ~~documentation of twenty (20) hours of~~

~~adoption training taken during that period.~~ the following: (5-8-09)()

a. Documentation of ten (10) hours of adoption training taken during the previous two (2) years; ()

b. Verification of malpractice insurance; ()

c. A satisfactory recommendation from the Division of Family and Community Services designee responsible for the review of the certified adoption professional's work; ()

d. Satisfactory recommendations from a minimum of two (2) families for whom the certified adoption professional has provided adoption services during the previous two (2) years; and ()

e. A certification fee of one hundred dollars (\$100) to be reimbursed, less a twenty-five dollar (\$25) processing fee, in the event the recertification is denied. ()

035. Lapse of Certification. If a certified adoption professional does not apply for recertification within ~~four~~ two (~~4~~2) years in accordance with Subsection 890.024 of this rule, this will result in a lapse of certification. Any lapse in certification will require completion of a new certified adoption professional application, documentation of ~~twenty~~ ten (~~2~~10) hours of adoption training during the ~~four~~ two (~~4~~2) years previous to this new application, and a new criminal history and background check. (5-8-09)()

a. If the individual applying for certification has received a Department criminal history and background check clearance within three (3) years of the date of this application and has not lived outside the state of Idaho since his last criminal history and background check, all of the following must be conducted and no disqualifying crimes or appearance on a registry found: (5-8-09)

i. A name-based background check by the Idaho State Police; (5-8-09)

ii. A check of the Idaho Child Protection Central Registry; (5-8-09)

iii. A check of the Idaho Adult Protection Registry; and (5-8-09)

iv. A check of the Idaho Sexual Offender Registry. (5-8-09)

b. If the individual has lived outside the state of Idaho for any amount of time during the three (3) years since the previous Department criminal history and background check clearance was completed, he must get a new Department criminal history and background check clearance. (5-8-09)

046. Denial of Recertification. The Department may choose not to recertify a certified adoption professional. Notification of denial will be made by the Department by certified mail. The notice will state the specific grounds for denial of recertification. This decision may be appealed within twenty-eight (28) days of receipt of notification under the provisions in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." Grounds for

denial of recertification are one (1) or more of the following: (5-8-09)

a. Substandard quality of work following the development of a quality improvement plan; (3-30-01)

b. Failure to gain ~~twenty ten~~ (210) additional hours of adoption continuing education required for recertification; or ~~(3-30-01)~~()

c. A demonstrated pattern of negligence or incompetence in performing the duties of a certified adoption professional. (3-20-04)

d. Failure to maintain malpractice insurance; ()

e. Failure to maintain a license to practice social work in the state of Idaho. This requirement does not apply to a certified adoption professional who has maintained his initial certification that occurred prior to July 1, 2012. ()

057. Decertification. A certified adoption professional can be decertified by the Department at any time during a ~~four~~ two (42) year period of certification. Notification of decertification will be made by the Department by certified mail. The notice will state the specific grounds for decertification. This decision may be appealed within twenty-eight (28) days of receipt of notification under the provisions in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." Grounds for decertification are one (1) or more of the following: ~~(5-8-09)~~()

a. Conviction for a felony; (3-30-01)

b. Negligence in carrying out the duties of a certified adoption professional; (3-20-04)

c. Misrepresentation of facts regarding their qualifications and/or the qualifications of a prospective adoptive family to adopt; ~~and~~ ~~(3-20-04)~~()

d. ~~A demonstrated pattern of~~ Failure to obtain Departmental review and approval of pre-placement homestudies; ~~and~~ court reports ~~and or~~ placement supervision reports; ~~or both, on more than one (1) occasion;~~ ~~(5-8-09)~~()

e. Failure to maintain malpractice insurance; ()

f. Suspension or loss of a license to practice social work in Idaho; or ()

g. Practice as a certified adoption professional outside the scope of the certification. ()

891. CERTIFIED ADOPTION PROFESSIONAL'S CLIENT RELATIONSHIP.

A certified adoption professional may not assume a legal relationship with any child for whom they have been contracted to perform services and may not provide services for anyone with whom they have had a personal or professional relationship during the previous two (2) years.

(5-8-09)()

892. MINIMUM STANDARDS FOR SERVICE.

~~Standards for pre-placement home studies, home study updates, court reports, and supervisory reports must, at a minimum, meet the standards for adoption services established by the Department in these rules. A certified adoption professional must meet the following service requirements:~~ (3-30-01)()

01. Description of Services Available. A written description of services will be provided to families by the certified adoption professional before any work is completed. The description of services must include information regarding Department oversight of the certified adoption professional and any limitations related to the use of the completed home study; ()

02. Education. Provision of, or referral to, educational resources to adoptive applicants requesting non-relative adoption; ()

03. Content. Standards for pre-placement home studies, home study updates, court reports, and supervisory reports must, at a minimum, meet the standards for adoption services established by the Department in these rules; ()

04. Release of Information. A written release of information that gives consent to the exchange of information between the certified adoption professional and Child and Family Services must be obtained from a family that receives services from a certified adoption professional; and ()

05. Disclosure of Non-Identifying Information. When providing adoption supervision or adoption finalization court report services, the certified adoption professional must provide disclosure of all known non-identifying information about the child, the child's birth parents, and the circumstances leading to the decision to place the child for adoption. ()

893. RECORDS OF THE CERTIFIED ADOPTION PROFESSIONAL.

Records of the pre-placement home studies, court reports, and supervisory reports provided by the certified adoption professional must be made available to the ~~regional Child and Family Services program manager or~~ Division of Family and Community Services designee ~~one~~ two (12) weeks prior to the required court filing date. The ~~regional~~ designee will be responsible for monitoring of quality of the services provided. (5-8-09)()

894. FEES CHARGED BY THE DEPARTMENT.

Monitoring fees will accompany the submission of each report and be paid directly to the Department through the ~~Child and Family Services regional office~~ Division of Family and Community Services as follows:

Table 894 - Qualified Individuals	
Home Study or Court Report	\$50
Supervision Report or Home Study Update	\$30

~~(5-8-09)~~()

895. DEPARTMENT RESPONSIBILITY TO CERTIFIED ADOPTION PROFESSIONAL.

~~The regional Child and Family Services designee will review the reports provided within a timely manner to insure filing of documentation by required court date by the certified adoption professional. The region will initiate corrective action plans when the documentation of any certified adoption professional is determined to be incorrect or substandard.~~ The Division of Family and Community Services is responsible for: ~~(5-8-09)~~()

- a. Reviewing and responding to submitted reports within five (5) business days; ()
- b. Initiation of corrective action plans when the documentation of a certified adoption professional is determined to be incorrect or substandard; and ()
- c. Dissemination of information to certified adoption professionals that may impact provided services. ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.02 - RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING
DOCKET NO. 16-0602-1101 (FEE RULE)
NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-1111, 39-1209, 39-1210, 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005, Idaho Code, and House Bill (HB)129a.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The 2011 Legislature adopted HB129a that increased the maximum fee amount that could be assessed for daycare centers in Section 39-1107, Idaho Code. Under Section 39-1109, Idaho Code, the safety standards and staff child ratios were also amended. This rule docket made changes to the Child Care Licensing rules to meet statutory requirements for daycare licensing. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [July 6, 2011, Idaho Administrative Bulletin, Vol. 11-7, pages 119 through 126.](#)

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased.

This fee or charge is being imposed pursuant to Section 39-1107, Idaho Code, that established a maximum licensing fee for a basic daycare license not to exceed \$325 for daycare centers with more than 25 children, \$250 for daycare centers with 13 - 25 children, and \$100 for group daycare facilities and family daycare homes who choose to be voluntarily licensed.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

The projected income from fees is \$60,630. The Department estimates the health and safety inspections will cost \$102,660. The total fiscal impact of these rules is (\$42,030), which will be covered by the Federal Child Care Development Fund that is 100% federally funded.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions

concerning the pending rule, contact Valerie Burgess (208) 334-5648.

DATED this 17th day of November, 2011.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5564; fax: (208) 334-6558
e-mail: dhwrules@dhw.idaho.gov

***THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE***

EFFECTIVE DATE: The effective date of this temporary rule is **July 1, 2011**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 39-1111, 39-1209, 39-1210, 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005, Idaho Code, and House Bill (HB)129a.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

Thursday, July 14, 2011 3:00 p.m. local time	Monday, July 18, 2011 1:00 p.m. local time
DHW - Region I 1250 Ironwood Dr. #100 Conf. Room 44 Coeur d Alene, ID	DHW - Region III 3402 Franklin Rd. Teton Room Caldwell, ID
Tuesday, July 26, 2011 2:00 p.m. local time	Wednesday, July 27, 2011 12:00 p.m. local time
DHW - Blackfoot Field Office 701 East Alice Self-Reliance Conf. Rm. Blackfoot, ID	DHW - Region V 601 Pole Line Road Front Conf. Rm. Twin Falls, ID

The hearing sites will be accessible to persons with disabilities. Requests for accommodation

must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The 2011 Legislature adopted HB129a that increased the maximum fee amount that could be assessed for daycare centers in Section 39-1107, Idaho Code. Under Section 39-1109, Idaho Code, the safety standards and staff child ratios were also amended. This temporary and proposed rule docket makes changes to the Child Care Licensing rules to meet statutory requirements for daycare licensing effective July 1, 2011.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a) and (b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of children in daycare and to comply with statutory requirements. These rules became effective on July 1, 2011.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

Section 39-1107, Idaho Code, established a maximum licensing fee for a basic daycare license not to exceed \$325 for daycare centers with more than 25 children, \$250 for daycare centers with 13 - 25 children, and \$100 for group daycare facilities and family daycare homes who choose to be voluntarily licensed.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

The projected income from fees is \$60,630. The Department estimates the health and safety inspections will cost \$102,660. The total fiscal impact of these rules is (\$42,030), which will be covered by the Federal Child Care Development Fund that is 100% federally funded.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted during 2011, because these licensing requirement were established by statutory requirements adopted by the 2011 Legislature in HB 129a.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Valerie Burgess (208) 334-5648.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2011.

DATED this 3rd day of June, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0602-1101

102. DISPOSITION OF APPLICATIONS.

The Department will initiate action on each completed application within thirty (30) days after receipt that addresses each requirement for the specific type of home, facility, or agency. Upon receipt of a completed application and study, the licensing authority will review the materials for conformity with these rules. (4-7-11)

01. Approval of Application. A license will be issued to any daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's residential facility, children's therapeutic outdoor program, children's camp, or children's agency found to be in conformity with these rules governing the home or facility. The license is issued according to the terms specified in the licensing study and will be mailed to the applicant. (4-7-11)

02. Regular License. A regular license will be issued to any daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's residential care facility, children's therapeutic outdoor program, children's camp, or children's agency found to be in conformity with these rules governing the facility and will specify the terms of licensure, such as: (4-7-11)

- a.** Full time or daycare; (3-30-01)
- b.** The number of children who may receive care at any one (1) time; and (3-30-01)
- c.** Age range and gender, if there are conditions in the foster home or children's residential care facility making such limitations necessary; (3-30-01)
- d.** The regular license for a foster home, children's agency, children's residential care facility, children's therapeutic outdoor program, or children's camp is in effect for one (1) year from the date of issuance unless suspended or revoked earlier; (4-7-11)
- e.** A regular license for a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department is in effect for two (2) years from the date of issuance unless suspended or revoked earlier; and (4-7-11)
- f.** If the license for a foster home is for a specific child only, the name of that child will be shown on the foster home license. (3-30-01)

03. Waiver. A regular license may be issued to the foster home of a relative who has received a waiver of licensing rules provided: (4-7-11)

a. The waiver is considered on an individual case basis; (3-30-01)

b. The waiver is approved only for non-safety foster care rules; (7-1-09)

c. All other licensing requirements have been met; (4-7-11)

d. The approval of a waiver of any foster home rules requires the licensing authority to document a description of the reasons for issuing a waiver, the rules being waived, and assurance that the waiver will not compromise the child's safety; and (7-1-09)

e. The approved waiver must be reviewed for continued need and approval at regular intervals not to exceed six (6) months. (7-1-09)

04. Variance. A regular license will be issued to a foster home, children's residential care facility or children's agency approved for a variance of a licensing rule provided: (4-7-11)

a. The variance is considered on an individual case basis; (3-30-01)

b. The variance is approved for a non-safety licensing rules; (3-30-01)

c. The approval of a variance must have no adverse effect on the health, safety, and well-being of any child in care at the foster home or facility; (7-1-09)

d. The approval of a variance is documented by the licensing agency and includes a description of the reasons for issuing a variance and assurances that the variance will not compromise any child's health, safety, and well-being; and (7-1-09)

e. The approved variance must be reviewed for continued need and approval annually. (7-1-09)

05. Provisional License. A provisional license may be issued to a ~~daycare center, group daycare facility, family daycare home voluntarily licensed by the Department,~~ foster home, children's residential care facility, children's therapeutic outdoor program, children's camp, or children's agency when a licensing standard cannot be met but can be expected to be corrected within six (6) months, provided this does not affect the health, safety and well-being of any child in care at the home or facility. (~~4-7-11~~)()

a. A provisional license will be in effect for not more than six (6) months. (4-7-11)

b. Only one (1) provisional license will be issued to a ~~daycare center, group daycare facility, family daycare home voluntarily licensed by the Department,~~ foster home, children's residential care facility, children's agency, children's therapeutic outdoor program, or children's camp in any twelve-month period of time under Sections 39-1216 ~~and 39-1102~~, Idaho Code. (~~4-7-11~~)()

06. Limited License. A limited license for a foster home may be issued for the care of a specific child in a home which may not meet the requirements for a license, provided that:

(3-30-01)

a. The child is already in the home and has formed strong emotional ties with the foster parents; and (3-30-01)

b. It can be shown that the child's continued placement in the home would be more conducive to their welfare than would removal to another home. (3-30-01)

07. Denial of Application. In the event that an application is denied, a signed letter will be sent directly to the applicant by registered or certified mail, advising the applicant of the denial and stating the basis for such denial. An applicant whose application has been denied may not reapply until after one (1) year has elapsed from the date on the denial of application. (4-7-11)

08. Failure to Complete Application Process. (7-1-09)

a. Failure of the applicant to complete the application process within six (6) months of the original date of application will result in a denial of the application. (7-1-09)

b. An applicant whose application has been denied for being incomplete may not reapply until after one (1) year has elapsed from the date on the denial of application. (7-1-09)

(BREAK IN CONTINUITY OF SECTIONS)

112. ENFORCEMENT REMEDY REVOCATION OF LICENSE AND TRANSFER OF RESIDENTS OR CHILDREN.

The Department may revoke the license of a daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's agency, children's therapeutic outdoor program, or children's residential care facility when the Department determines the operator is not in compliance with these rules. Children in a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, will not be transported from the facility, instead the parent or legal guardian will be contacted. Revocation and transfer of residents or children may occur under the following circumstances: (4-7-11)

01. Endangers Health or Safety. Any condition that endangers the health or safety of any resident or child. (4-7-11)

02. Not in Substantial Compliance. A foster home, children's agency, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, children's camp, or children's residential care facility is not in substantial compliance with these rules. (4-7-11)

03. No Progress to Meet Plan of Correction. A foster home, children's agency,

daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, children's camp, or children's residential care facility has made little or no progress in correcting deficiencies within thirty (30) days from the date the Department accepted a plan of correction. (4-7-11)

04. Repeat Violations. Repeat violations of any requirement of these rules or provisions of Title 39, Chapters 11 and 12, Idaho Code. (4-7-11)

05. Misrepresented or Omitted Information. A foster home, children's agency, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, children's camp, or children's residential care facility has knowingly misrepresented or omitted information on the application or other documents pertinent to obtaining a license. (4-7-11)

06. Refusal to Allow Access. Refusal to allow Department representatives full access to the foster home, children's agency, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, children's camp, or children's residential care facility and its grounds facilities and records. (4-7-11)

07. Violation of Terms of Provisional License. A children's agency, ~~daycare center, group daycare facility, family daycare home voluntarily licensed by the Department~~ **foster home**, children's therapeutic outdoor program, children's camp, or children's residential care facility that has violated any of the terms or conditions of a provisional license. ~~(4-7-11)~~ ()

(BREAK IN CONTINUITY OF SECTIONS)

310. -- ~~320~~19. (RESERVED)

320. DAYCARE LICENSING MAXIMUM TOTAL FEES.

A nonrefundable licensing fee must be paid to the Department prior to the issuance or renewal of a daycare license. ()

01. Daycare Licensing Maximum Total Fee Amounts. The maximum total fee for initial licensure or renewal of a daycare center, group daycare facility, or family daycare home voluntarily licensed must not exceed the following amounts: ()

a. For a daycare center with more than twenty-five (25) children in attendance at any given time - three hundred twenty-five dollars(\$325). ()

b. For a daycare center with thirteen (13) to twenty-five (25) children in attendance at any given time - two hundred fifty dollars (\$250). ()

c. For a group daycare facility - one hundred dollars (\$100). ()

d. For a family daycare home voluntary license - one hundred dollars (\$100). ()

02. Daycare Fire Inspection Fee. Daycare fire inspection fees are payable to the local fire department or fire district official. ()

(BREAK IN CONTINUITY OF SECTIONS)

325. ISSUANCE OF LICENSE.

01. Department Action. The Department will order a health and safety inspection of the daycare facility once the application for licensure is complete and the licensing fee has been paid. (4-7-11)

02. Issuance of a Regular License. If the Department determines the applicant is in compliance with the rules and minimum standards set forth in these rules, the Department will, within sixty (60) days from the date the completed application is submitted, issue one (1) of the following licenses: (4-7-11)

a. Daycare Center License, stating the type of facility, the number of children who may be in attendance, and the length of time the license is in effect; (4-7-11)

b. Group Daycare Facility License, stating the type of facility, the number of children who may be in attendance, and the length of time the license is in effect; or (4-7-11)

c. Family Daycare Home License, stating the type of facility, the number of children who may be in attendance, and the length of time the license is in effect. (4-7-11)

~~**03. Issuance of Provisional License.** A provisional daycare license may be issued for a period of time not to exceed one hundred eighty (180) days provided this does not effect the health, safety, and well-being of any child in daycare at the home or facility and the Department determines that a licensing standard cannot be met but is expected to be corrected within six (6) months. A provisional daycare license automatically expires after one hundred eighty (180) days and can only be issued one (1) time in any twelve-month period. (4-7-11)~~

043. Denial of Licensure. If the Department determines the applicant is not in compliance with the rules and minimum standards set forth in this chapter and further determines not to issue a regular license or provisional license, the Department will, within thirty (30) days from the date the completed application is submitted, issue a letter of denial of licensure stating the basis for the denial. (4-7-11)

054. Incomplete Application. The Department is not required to take any action on an application until the application is complete. (4-7-11)

065. Notification of License Renewal. The Department will notify the licensed daycare operator at least ninety (90) days prior to expiration of the license. (4-7-11)

076. List of Licensed Daycare Facilities. The Department will maintain a list of all licensed daycare facilities for public use. (4-7-11)

(BREAK IN CONTINUITY OF SECTIONS)

335. CHILD-STAFF RATIOS AND MAXIMUM GROUP SIZES.

Under Section 39-1109, Idaho Code, the Department determines the maximum allowable child-staff ratio of children to staff and maximum group size as described in the tables provided in Subsections 335.01 and 335.02 of this rule based on a point system. (4-7-11)()

01. Daycare Centers Child-Staff Ratios and Maximum Group Size Point System.

DAYCARE CENTERS CHILD-STAFF RATIOS AND MAXIMUM GROUP SIZE Based on Age of Youngest Child TABLE 335.01		
<i>Ages and Counts Based on Age of Youngest Child</i>	<i>Child:Staff Ratio</i>	<i>Maximum Group Size</i>
<i>A child or children birth to two (2) years of age</i>	<i>6:1 or 12:2</i>	<i>12</i>
<i>All children at least two (2) years of age</i>	<i>8:1 or 16:2</i>	<i>16</i>
<i>All children at least three (3) years of age</i>	<i>10:1 or 20:2</i>	<i>20</i>
<i>All children at least four (4) years of age</i>	<i>12:1 or 24:2</i>	<i>24</i>
<i>All children at least five (5) years of age</i>	<i>18:1 or 36:2</i>	<i>36</i>

The maximum allowable points for each staff member is twelve (12), using the following point system which is based on the age of each child in attendance: (4-7-11)()

- a. Under the age of twenty-four (24) months, each child equals two (2) points. ()
- b. From the age of twenty-four (24) months to under the age of thirty-six (36) months, each child equals one and one-half (1 1/2) points. ()
- c. From the age of thirty-six (36) months to under the age of five (5) years, each child equals one (1) point. ()
- d. From the age of five (5) years to under the age of thirteen (13) years, each child equals one-half (1/2) point. ()

~~**02. Group Daycare Facilities and Licensed Family Daycare Homes Child Staff Ratios and Maximum Group Size.**~~

<p style="text-align: center;">GROUP DAYCARE FACILITIES AND LICENSED FAMILY DAYCARE HOMES CHILD-STAFF RATIOS AND MAXIMUM GROUP SIZE Based on Age of Youngest Child TABLE 335.02</p>		
Agos and Counts Based on Age of Youngest Child	Child:Staff Ratio	Maximum Group Size
No child or children under the age of two (2)	12:1	12
One (1) or two (2) children under the age of two (2) years	10:1 or 12:2	10 or 12
Three (3) or more children under the age of two (2) years	9:1 or 12:2	9 or 12

~~(4-7-11)~~

032. Compliance with Child-Staff Ratios ~~and Maximum Group Sizes~~. Child-staff ratios ~~and maximum group sizes~~ must be maintained at all times during all hours of operation when children are in attendance and when transporting children. ~~(4-7-11)~~()

a. Each child in attendance is counted by the Department ~~as one (1) child~~ for the purposes of calculating maximum allowable points, counting the number of children in attendance, and for determining compliance with child-staff ratios; ~~(4-7-11)~~()

~~**b.** The ratio of children to staff and maximum group size in mixed age groups is determined by the age of the youngest child in attendance;~~ ~~(4-7-11)~~

eb. Each adult staff member who is providing direct care for a child or children is counted by the Department as one (1) staff member for the purposes of counting the number of staff on-duty and determining compliance with child-staff ratios; and (4-7-11)

dc. Each staff member sixteen (16) and seventeen (17) years of age under the supervision of an adult staff member, when providing direct care for a child or children, may be counted by the Department as one (1) staff member for the purposes of counting the number of staff on-duty and determining compliance with child-staff ratios. (4-7-11)

04. Supervision of Children. The owner or operator and all staff are responsible for the direct care, protection, supervision, and guidance of children through active involvement or direct observation. In addition to meeting all of the minimum requirements of child-staff ratio ~~and maximum group size~~, the owner or operator of a daycare center, group daycare facility, or family daycare home licensed by the Department must ensure that at least one (1) adult staff member is: ~~(4-7-11)~~()

a. Awake and on duty on the premises at all times during regular business hours or when children are in attendance, and (4-7-11)

b. Currently certified in pediatric rescue breathing, infant-child CPR, and first-aid

treatment. (4-7-11)

05. Napping Children. Napping children who are not within sight of a staff member must be within easy hearing distance at all times. (4-7-11)

06. Overnight Daycare. For daycare operators providing overnight care of children, the following must apply: (4-7-11)

a. A sleeping child must sleep on the same level as the staff member who must be able to hear the child; and (4-7-11)

b. A staff member must be awake and on duty to release and receive a child. (4-7-11)