

# Table Of Contents

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## 16.06.01 - Rules Governing Family and Children's Services

000. Legal Authority. ....	6
001. Title And Scope. ....	6
002. Written Interpretations. ....	6
003. Administrative Appeals. ....	6
004. Confidentiality Of Records And Public Records Requests. ....	6
005. (Reserved). ....	6
006. Incorporation By Reference. ....	6
007. Office Hours -- Mailing Address -- Street Address -- Telephone -- Website. ....	6
008. (Reserved). ....	7
009. Criminal History And Background Check Requirements. ....	7
010. Definitions And Abbreviations A Through E. ....	7
011. Definitions And Abbreviations F Through K. ....	9
012. Definitions And Abbreviations L Through R. ....	10
013. Definitions And Abbreviations S Through Z. ....	12
014. -- 019. (Reserved). ....	13
<b>GENERAL REQUIREMENTS AND SERVICES</b>	
020. General Requirements Applicable To All Family And Children's Services Programs. .	13
021. -- 029. (Reserved). ....	14
030. Core Family And Children's Services. ....	14
031. -- 039. (Reserved). ....	15
040. Family Services Practice. ....	15
041. -- 049. (Reserved). ....	15
050. Protections And Safeguards For Children And Families. ....	15
051. Notice Required For ICWA. ....	17
052. -- 059. (Reserved). ....	17
060. Family Case Records. ....	17
061. -- 069. (Reserved). ....	18
070. Standards For Safeguarding Information Concerning Applicants And Recipients Of Services. ....	18
071. -- 239. (Reserved). ....	18
<b>REVIEWS AND HEARINGS</b>	
240. Six Month Reviews Conducted By The Department. ....	18
241. -- 249. (Reserved). ....	19
250. Permanency Hearings. ....	19
251. Citizen Review Panels. ....	19
252. -- 399. (Reserved). ....	19
<b>ALTERNATE (OUT-OF-HOME) CARE</b>	
400. Authority For Alternate Care Services. ....	19
401. Considerations For Placement In Alternate Care. ....	20
402. Involuntary Placement Of Indian Children. ....	20
403. Date A Child Entered Foster Care. ....	20
404. (Reserved). ....	20
405. Alternate Care Case Management. ....	20

406. -- 421. (Reserved).	22
422. Alternate Care Planning.	22
423. -- 424. (Reserved).	22
<b>ELIGIBILITY AND FUNDING INFORMATION</b>	
425. Aid To Families With Dependent Children -- Foster Care (AFDC-FC) Eligibility.	23
426. AFDC-FC Eligibility Requirements.	23
427. Determination Of Eligibility For ADC-FC.	24
428. Custody And Placement.	24
429. Effective Date.	24
430. Ongoing Eligibility.	25
431. AFDC-FC And SSI Eligibility.	26
432. Title XIX Foster Child.	26
433. Income, Benefits And Savings Of Children In Foster Care.	26
434. Forwarding Of Benefits.	26
435. Periodic Review Of Benefits From Bureau Of Indian Affairs (BIA).	27
436. Financial Support For Children In Alternate Care.	27
437. Accounting And Reporting.	27
438. Support Agreement For Voluntary Placements.	27
439. Support In Court-Ordered Placement.	27
440. Insurance Coverage.	27
441. Referral To Child Support Services.	27
<b>MEDICAL AND DENTAL FOR CHILDREN IN OUT-OF-HOME CARE</b>	
442. Medicaid For Children In Alternate Care.	28
443. EPSDT Screening.	28
444. Medical Emergencies.	28
445. Dental Care.	28
446. Costs Of Prescription Drugs.	28
447. Medical Examination Upon Entering Alternate Care.	28
448. -- 450. (Reserved).	28
451. Drivers' Training And Licenses For Children In Alternate Care.	28
452. -- 479. (Reserved).	28
<b>LICENSURE AND REIMBURSEMENT OF ALTERNATE CARE PROVIDERS</b>	
480. Alternate Care Licensure.	29
481. Facilities Operated By The State.	29
482. Payment For Shelter Care.	29
483. Payment To Family Foster Care Providers.	29
484. Specialized Foster Care.	29
485. Professional Foster Care.	30
486. Group Foster Care.	30
487. Intensive Treatment Facilities.	30
488. -- 491. (Reserved).	31
492. Reimbursement In The Home Of A Relative.	31
493. -- 549. (Reserved).	31
<b>CHILD PROTECTION SERVICES</b>	
550. Child Protection Services.	31
551. Reporting Abuse, Abandonment Or Neglect.	31

552. Reporting System. ....	31
553. Assigning Reports For Risk Assessment. ....	32
554. Response Priorities. ....	32
555. Supervisory Review - Certain Priority I And II Cases. ....	32
556. Reports Involving Indian Children. ....	32
557. Reports Involving Military Families. ....	32
558. Community Resources. ....	33
559. Child Protection Immediate Safety And Comprehensive Assessments. ....	33
560. Disposition Of Child Protection Reports. ....	34
561. Child Protection Central Registry. ....	34
562. Confidentiality Of The Child Protection Central Registry. ....	34
563. Substantiated Reports On The Child Protection Central Registry. ....	34
564. Petitioning For Removal From The Child Protection Central Registry. ....	36
565. "Safe Haven" Exemption For Parents Of Certain Abandoned Infants. ....	37
566. Court-Ordered Child Protection Risk Assessment. ....	37
567. Petition Under The Child Protective Act. ....	38
568. Cooperation With Law Enforcement. ....	38
569. Child Custody Investigations For The District Court. ....	38
570. -- 639. (Reserved). ....	38
<b>CHILDREN'S MENTAL HEALTH SERVICES</b>	
640. Child Mental Health Services. ....	38
641. Outcomes. ....	38
642. Access To Services. ....	39
643. Charges To Parent(s) Or Legal Guardian(s). ....	39
644. Sliding Scale Fee Table 644. ....	40
645. Fee Determination For Services Other Than Out-Of-Home Care. ....	40
646. -- 699. (Reserved). ....	42
<b>ADOPTION SERVICES</b>	
700. Adoption Services Policy. ....	42
701. Services To Be Provided In Adoptions. ....	42
702. Services To Be Provided In Legal Guardianships. ....	43
703. -- 709. (Reserved). ....	44
710. Family History. ....	44
<b>TERMINATION OF PARENT-CHILD RELATIONSHIP</b>	
711. Decision And Approval Process For Termination Of Parent And Child Relationship (TPR). ....	44
712. -- 713. (Reserved). ....	45
714. Voluntary Termination. ....	45
715. Voluntary Consent. ....	45
716. Voluntary Termination Of Parental Rights To An Indian Child. ....	45
717. Filing Of Petition For Voluntary Termination. ....	45
718. Report To Court -- Voluntary Termination. ....	45
719. Investigation. ....	45
720. Filing Of A Petition For Involuntary Termination Of Parent And Child Relationship. ....	46
721. Report To The Court -- Involuntary Termination. ....	46
722. -- 749. (Reserved). ....	47

**BECOMING AN ADOPTIVE PARENT**

750. Application To Be Adoptive Parent(s). .....48  
751. -- 759. (Reserved). .....48  
760. Psychological Evaluation. ....48  
761. Denial Of Application. ....48  
762. Application And Data Collection. ....48  
763. Applicant Responsibilities. ....49  
764. Pre-Placement Adoptive Home Study. ....49  
765. -- 769. (Reserved). ....49  
770. Adoptive Home Studies. ....49  
771. -- 779. (Reserved). ....49  
780. Factors To Be Considered In Determining Suitability Of Adoptive Parents. ....49  
781. -- 789. (Reserved). ....50  
790. Foster Parent Adoptions. ....50  
791. -- 799. (Reserved). ....50  
800. Placement Of The Child. ....50  
801. -- 829. (Reserved). ....50  
830. Adoption Application Fee. ....50  
831. Home Study, Supervisory Reports, And Reports Of The Court Fees. ....50  
832. Fee Schedule - Adoptions Through Department. ....50  
833. Placement Supervision -- Transfer From Out Of State Private Agency. ....51  
834. -- 849. (Reserved). ....51  
850. Independent, Relative And Stepparent Adoptions. ....51  
851. -- 859. (Reserved). ....51

**THE ADOPTIVE PLACEMENT**

860. Procedures Following The Adoptive Placement. ....52  
861. Progress Reports. ....52  
862. Petition To Adopt Under The Adoption Of Children Act. ....53  
863. Investigation Of Petition To Adopt And Report To The Court. ....53  
864. -- 869. (Reserved). ....54  
870. Removal Of A Child From A Prospective Adoptive Home. ....54  
871. Temporary Replacement After Disruption. ....54  
872. Preferences For Temporary Placement -- Indian Child. ....55  
873. -- 879. (Reserved). ....55  
880. Applications For Subsequent Adoptions. ....55  
881. Closure Of Case. ....55  
882. Records Of Placement. ....55  
883. Post-Legal Adoption Services. ....55  
884. Opening Sealed Records Of Adoptions. ....55  
885. -- 888. (Reserved). ....55

**CERTIFIED ADOPTION PROFESSIONAL**

889. Certified Adoption Professional Requirements. ....56  
890. Terms Of Certification For Adoption Professionals. ....56  
891. Certified Adoption Professional's Client Relationship. ....56  
892. Minimum Standards For Service. ....57  
893. Records Of The Certified Adoption Professional. ....57

894. Fees Charged By The Department. ....	57
895. Department Responsibility To Certified Adoption Professional. ....	57
896. -- 899. (Reserved). ....	57
<b>ADOPTION ASSISTANCE</b>	
900. Adoption Assistance. ....	57
901. Attempt To Place Without Adoption Assistance. ....	59
902. -- 909. (Reserved). ....	59
910. Types And Amounts Of Assistance. ....	59
911. Adoption Assistance Program Agreement. ....	60
912. -- 919. (Reserved). ....	60
920. Request For Reconsideration For Adoption Assistance. ....	60
921. Burden Of Proof -- Extenuating Circumstances. ....	61
922. Retroactive Adoption Assistance Benefits. ....	61
923. Disruption Of International Adoptions. ....	61
924. -- 999. (Reserved). ....	61

**IDAPA 16  
TITLE 06  
CHAPTER 01**

**16.06.01 - RULES GOVERNING FAMILY AND CHILDREN'S SERVICES**

**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, 16-2406, 16-2423, 16-2433, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-203B, 56-204A, 56-803, 56-1003, 56-1004, and 56-1004A, Idaho Code. (4-2-08)

**001. TITLE AND SCOPE.**

**01. Title.** These rules are to be cited in full as Idaho Department of Health and Welfare Rules, IDAPA 16.06.01, "Rules Governing Family and Children's Services." (3-18-99)

**02. Scope.** These rules are established to govern the statewide provision of: (3-18-99)

**a.** Family services associated with child protection, behavioral and emotional disorders, substance abuse, alternate care and adoptions; (3-18-99)

**b.** As resources are available, services aimed at preventing child protective, and severe behavioral and emotional problems from impinging upon families and communities; and (3-18-99)

**c.** Family services to support the education, training and employment programs being provided for public assistance and Food Stamp recipients. (3-18-99)

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency has written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. The document is available for public inspection and copying at cost in the main office of this agency. (3-18-99)

**003. ADMINISTRATIVE APPEALS.**

Administrative appeals are governed by the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (4-11-06)

**004. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.**

**01. Confidential Records.** Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (4-11-06)

**02. Public Records.** The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. (4-11-06)

**005. (RESERVED).**

**006. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference into this chapter of rules. (5-3-03)

**007. OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- WEBSITE.**

**01. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (4-11-06)

**02. Mailing Address.** The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (4-11-06)

**03. Street Address.** The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (4-11-06)

**04. Telephone.** The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (4-11-06)

**05. Internet Website.** The Department's internet website is found at <http://www.healthandwelfare.idaho.gov>. (4-11-06)

**008. (RESERVED).**

**009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.**

**01. Compliance With Department Criminal History and Background Check.** All current Department employees, applicants, transfers, reinstated former employees, student interns, contract employees, Certified Adoption Professionals, volunteers, and others assigned to programs that involve direct contact with children or vulnerable adults as described in Section 39-5302, Idaho Code, must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." (3-30-07)

**02. Availability to Work or Provide Service.** Certain individuals are allowed to provide services after the self-declaration is completed as provided in Section 56-1004A, Idaho Code, except when they have disclosed a designated crime listed in IDAPA 16.05.06, "Criminal History and Background Checks." The criminal history check requirements applicable to each provider type are found in the rules that state the qualifications or certification of those providers. (3-30-07)

**03. Adoption.** An individual applying to the Department to be an adoptive parent or petitioning the court for the adoption of a child must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." (3-30-07)

**010. DEFINITIONS AND ABBREVIATIONS A THROUGH E.**

For the purposes of these rules, the following terms are used as defined in Section 010: (3-30-07)

**01. IV-E Foster Care.** Child care provided in lieu of parental care in a foster home, children's agency or institution eligible to receive Aid to Dependent Children under Title IV-E of the Social Security Act. (3-18-99)

**02. Adoption Assistance.** Funds provided to adoptive parent(s) of children who have special needs or who could not be adopted without financial or medical assistance. (3-30-07)

**03. Adoption Services.** Protective services through which children are provided with permanent homes, under new legal parentage, including transfer of the mutual rights and responsibilities that prevail in the parent-child relationship. (3-30-07)

**04. Alternate Care.** Temporary living arrangements, when necessary for a child to leave his own home, through a variety of foster care, respite care, residential treatment and institutional resources, in accordance with the protections established in Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980" as amended by Public Law 105-89, the Adoption and Safe Families Act of 1997, the Child Protective Act, Section 16-1601 et seq., Idaho Code, and the Indian Child Welfare Act. (3-30-01)

**05. Alternate Care Plan.** A federally required component of the Family Plan for children in alternate care. The alternate care plan contains elements related to reasonable efforts, the family's plan, child's alternate care provider, compelling reasons for not terminating parental rights, Indian status, education, immunization, medical and other information important to the day-to-day care of the child. (5-3-03)

**06. Area of Concern.** Circumstances that brought a child and family to the attention of the

Department. These circumstances typically involve safety issues that put the child at risk of harm. (3-30-07)

**07. Assessment.** The first step in the planning process, the outcome of which is the systematic documentation of the family's areas of concern, their strengths, and desired outcomes. (3-30-07)

**08. Board.** The Idaho State Board of Health and Welfare. (3-18-99)

**09. Case Management.** A change-oriented service to families that assures and coordinates the provision of family risk assessment, family case planning, treatment and other services, protection, advocacy, review and reassessment, documentation, and timely closure of a case. (3-30-07)

**10. Certified Adoption Professional (formerly "qualified individual").** An individual certified by the Department who meets the qualifications specified in Section 889 of these rules for completion of pre-placement adoption home studies, reports to the court under the Termination of Parent and Child Relationship and Adoption of Children Acts, and placement supervision reports. (3-20-04)

**11. Child Mental Health.** All of the following children under eighteen (18) years of age must be served without regard to income or type of health insurance: (3-30-07)

**a.** Those who have a serious emotional disturbance or a grave disability due to a serious mental illness; and (3-30-01)

**b.** Present a significant risk of harm to themselves or to others, due to their mental illness; and (3-30-01)

**c.** Because of their mental illness are at risk for out-of-home placements or are currently in out-of-home placement and lack adequate resources to participate in their community's non-public system of care; or (3-30-01)

**d.** Are involuntarily committed to the Department for out-of-home placement. (3-30-01)

**12. Child Mental Health Services.** Services provided in response to the needs of children with a serious emotional disturbance and their families. These services are provided in accordance with the provisions of Section 16-2402 et seq., Idaho Code, the "Children's Mental Health Services Act." (3-30-01)

**13. Child Protection.** All children under eighteen (18) who have been harmed or threatened with harm by a person responsible for their health or welfare through non-accidental physical or mental injury, sexual abuse (as defined by state law) or negligent treatment or maltreatment, including the failure to provide adequate food, clothing or shelter must be served without regard to income. (3-30-07)

**14. Child Protective Services.** Services provided in response to potential, alleged or actual abuse, abandonment or neglect of individuals under the age of eighteen (18) in accordance with the provisions of Section 16-1601 et seq., Idaho Code, the "Child Protective Act." (3-18-99)

**15. Compact Administrator.** The individual designated to coordinate interstate transfers of persons requiring special services in accordance with the provisions of Section 16-2101 et seq., Idaho Code; "Interstate Compact on the Placement of Children," Section 16-1901 et seq., Idaho Code; or the "Interstate Compact on Mental Health," Section 66-1201 et seq., Idaho Code; or the "Interstate Compact on Adoption and Medical Assistance," Section 39-7501 et seq., Idaho Code. (3-20-04)

**16. Day Care for Children.** Care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's or children's own home or homes. (3-18-99)

**17. Day Treatment Services.** Intensive nonresidential services that include an integrated set of educational, clinical, social, vocational and family interventions provided on a regularly scheduled, typically daily, basis. (3-18-99)



- 18. Department.** The Idaho Department of Health and Welfare. (3-18-99)
- 19. Deprivation.** One of the factors used in determining Aid to Families with Dependent Children -- Foster Care (AFDC-FC) eligibility for children in foster care. Deprivation is a lack of, or interruption in, the maintenance, physical care, and parental guidance a child ordinarily receives from one (1) or both parents. A child is deprived by the continued absence of a parent, incapacity of a parent, death of a parent, unemployment or underemployment of the principal wage earner parent. (3-30-07)
- 20. Desired Result.** Behaviorally-specific description of how the family circumstances will look when the risk factors that brought a child and family to the Department's attention, either no longer exist or are significantly reduced. (3-30-07)
- 21. Director.** The Director of the Idaho Department of Health and Welfare or his designee. (3-30-07)
- 22. Extended Family Member of an Indian Child.** As defined by the law, or custom of an Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen (18) and who is an Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent. (3-30-01)
- 011. DEFINITIONS AND ABBREVIATIONS F THROUGH K.**  
For the purposes of these rules, the following terms are used as defined in Section 011: (3-30-07)
- 01. Family.** Parent(s), legal guardian(s), related individuals including birth or adoptive immediate family members, extended family members and significant other individuals, who are included in the family plan. (5-3-03)
- 02. Family and Children's Services.** Those programs and services directed to families and children, administered by the Department and provided in accordance with these rules. (3-30-07)
- 03. Family Assessment.** An ongoing process based on information gained through a series of meetings with a family to gain mutual perception of strengths and resources that can support them in creating long-term solutions related to identified service needs and safety threats to family integrity, unity, or the ability to care for their members. (3-30-07)
- 04. Family Case Record.** Electronic and hard copy compilation of all documentation relating to a family, including, but not limited to, legal documents, identifying information, and evaluations. (3-30-01)
- 05. Family (Case) Plan.** Also referred to as a family service plan. A written document that serves as the guide for provision of services. The plan, developed with the family, clearly identifies who does what, when, how and why. The family plan incorporates any special plans made for individual family members. If the family includes an Indian child, or child's tribe, tribal elders or leaders should be consulted early in the plan development. (3-30-07)
- 06. Family Services Worker.** Any of the direct service personnel, including social workers, psychologists, counselors and family therapists, working in regional Family and Children's Services Programs. (3-20-04)
- 07. Field Office.** A Department of Health and Welfare service delivery site. (3-18-99)
- 08. FOCUS (Family Oriented Community User System).** This is the Department's computer information system used by Family and Children's Services personnel to maintain federally-required child welfare information. FOCUS provides a case management system for Child Protection, Adoptions, Children's Mental Health, Interstate Compact, and Independent Living for the Department. (3-30-07)
- 09. Goal.** A statement of the long term outcome or plan for the child and family. (3-18-99)
- 10. Guardianship Assistance.** State benefits provided to legal guardian(s) for the support of a child for

whom efforts to place for adoption have been unsuccessful and who would otherwise remain in the guardianship of the Department of Health and Welfare. For a child to come into the Department's guardianship, parental rights must have been terminated. (3-30-07)

**11. Immediate Safety Assessment.** Standardized protocol for contact between a family services worker and a family to objectively determine if safety threats, risks, or immediate service needs exist that require further Family and Children's Services response. (3-30-07)

**12. Independent Living.** Services provided to eligible foster or former foster youth ages fifteen (15) to twenty-one (21) designed to support a successful transition to adulthood. (3-30-01)

**13. Indian.** Any person who is a member of an Indian tribe or who is an Alaska Native and a member of a Regional Corporation as defined in 43 U.S.C. 1606. (3-18-99)

**14. Indian Child.** Any unmarried person who is under the age of eighteen (18) who is: (3-18-99)

**a.** A member of an Indian tribe, or (3-18-99)

**b.** Eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe. (3-18-99)

**15. Indian Child Welfare Act (ICWA).** The Indian Child Welfare Act, 25 U.S.C. 1901, et seq. (3-18-99)

**16. Indian Child's Tribe.** (3-18-99)

**a.** The Indian tribe in which an Indian child is a member or eligible for membership, or (3-18-99)

**b.** In the case of an Indian child who is a member of or eligible for membership in more than one (1) tribe, the Indian tribe with which the Indian child has the more significant contacts. (3-18-99)

**17. Indian Tribe.** Any Indian Tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in 43 U.S.C. 1602(c). (3-18-99)

**18. Intercountry Adoption Act of 2000 (P.L. 106-279).** Federal law designed to protect the rights of, and prevent abuses against children, birth families, and adoptive parents involved in adoptions (or prospective adoptions) subject to the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, and to insure that such adoptions are in the children's best interests; and to improve the ability of the federal government to assist U.S. citizens seeking to adopt children from abroad and residents of other countries party to the Convention seeking to adopt children from the United States. (5-3-03)

**19. Interethnic Adoption Provisions of 1996 (IEPA).** IEPA prohibits delaying or denying the placement of a child for adoption or foster care on the basis of race, color or national origin of the adoptive or foster parent(s), or the child involved. (5-3-03)

**20. Interstate Compact on the Placement of Children (ICPC).** Interstate Compact on the Placement of Children (ICPC) in Chapter 21, Title 16, Idaho Code, ensures that the jurisdictional, administrative and human rights obligations of interstate placement or transfers of children are protected. (3-20-04)

**21. Kin.** Non-relatives who have a significant, family-like relationship with a child. Kin may include godparents, close family friends, clergy, teachers and members of a child's Indian tribe. Also known as fictive kin. (3-30-01)

**012. DEFINITIONS AND ABBREVIATIONS L THROUGH R.**  
For the purposes of these rules, the following terms are used as defined in Section 012: (3-30-07)

- 01. Legal Guardianship.** A judicially created relationship, including one made by a tribal court, between a child and a relative or non-relative caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control of the person, custody of the person, and decision making. The term "legal guardian" means the caretaker in such a relationship. For purposes of these rules a child must be in Department guardianship at the time the Petition for Legal Guardianship is filed with the court. Department guardianship may only take place when there has been a termination of parental rights. (5-3-03)
- 02. Licensed.** Facilities or programs are licensed in accordance with the provisions of IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-30-07)
- 03. Licensing.** See IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," Section 100. (3-30-07)
- 04. Medicaid.** See "Title XIX." (3-30-01)
- 05. Multiethnic Placement Act of 1994 (MEPA).** MEPA prohibits states or public and private foster care and adoption agencies that receive federal funds from delaying or denying the placement of any child solely on the basis of race, color or national origin. (3-18-99)
- 06. Parent(s).** The person(s) who, by birth or through adoption, is considered legally responsible for a child. For purposes of these rules, when it is necessary to be more specific, identifiers will be added to parent(s): birth parent(s), foster parent(s), adoptive parent(s), step-parent(s), and pre-adoptive parent(s). The term "legal guardian(s)" is not included in the definition of parent(s). (3-20-04)
- 07. Permanency Planning.** A primary function of family services initiated in all cases to identify programs, services and activities designed to establish permanent home and family relationships for children within a reasonable amount of time. (3-18-99)
- 08. Personal Care Services (PCS).** Services to eligible Medicaid recipients that involve personal and medically oriented tasks dealing with the physical or functional impairments of the individual. (3-18-99)
- 09. P.L. 96-272.** Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980." (3-30-01)
- 10. P.L. 105-89.** Public Law 105-89, the federal "Adoptions and Safe Families Act of 1997," amends P.L. 96-272 and prohibits states from delaying or denying cross-jurisdictional adoptive placements with an approved family. (3-30-01)
- 11. Planning.** An orderly rational process which results in identification of goals and formulation of timely strategies to fulfill such goals, within resource constraints. (3-30-01)
- 12. Purchase of Services.** Provision of services to children and families by local agencies or individuals who contract with DHW. (3-30-01)
- 13. Qualified Expert Witness--ICWA.** A person who is most likely to be a qualified expert witness in the placement of an Indian child is: (3-18-99)
- a.** A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs pertaining to family organization and child rearing practices; (3-18-99)
  - b.** An individual who is not a tribal member who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe; (3-18-99)
  - c.** A professional person who has substantial education and experience in a pertinent specialty area and substantial knowledge of prevailing social and cultural standards and child rearing practices within the Indian

community; or (3-18-99)

**d.** An individual regarded as being a qualified expert who is referred by the Indian child's tribe, the Department's ICWA Specialist, or the Bureau of Indian Affairs. (3-18-99)

**14. Relative.** Person related to a child by blood, marriage, or adoption. (3-30-01)

**15. Reservation.** Indian country as defined in 18 U.S.C. Section 1151, and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation. Such term includes but is not limited to the Kootenai Reservation, the Coeur d'Alene Reservation, the Nez Perce Reservation, the Duck Valley Reservation, and the Shoshone-Bannock Reservation. (3-18-99)

**16. Respite Care.** Time limited care provided to children. Respite care is utilized in circumstances which require short term, temporary placement of a child from the home of their usual care giver to that of another licensed or agency approved family. In general, the duration of a respite placement is from one (1) to fourteen (14) days. (3-30-01)

**013. DEFINITIONS AND ABBREVIATIONS S THROUGH Z.**  
For the purposes of these rules, the following terms are used as defined in Section 013: (3-30-07)

**01. SSI (Supplemental Security Income).** Income maintenance grants for eligible persons who are aged, blind or disabled. These grants are provided under Title VI of the Social Security Act and are administered by the Social Security Administration and local Social Security Offices. (3-18-99)

**02. Safety Plan.** Plan developed by the Department and a family which assures the immediate safety of a child who has been determined to be conditionally safe or unsafe. (3-30-01)

**03. Serious Emotional Disturbance (SED).** An emotional or behavioral disorder or a neuropsychiatric condition which results in a serious disability, which requires sustained treatment interventions and causes the child's functioning to be impaired in at least one (1) of the following areas: thought, perception, affect and behavior. A disorder is considered to be a serious disability if it causes substantial impairment in functioning. Functional impairment is assessed using the Child and Adolescent Functional Assessment Scale (CAFAS). Substantial impairment requires a full eight (8) scale score of eighty (80) or higher with "moderate" impairment in at least one (1) of the following three (3) scales: Self-harmful behavior; Moods/emotions; or thinking. A substance abuse disorder, conduct disorder, or developmental disorder, alone does not constitute a serious emotional disturbance, although one (1) or more of these conditions may co-exist with serious emotional disturbance. (3-30-07)

**04. Social Service Block Grant.** The social service block grant funds are federal funds provided to states to assist in the development of comprehensive social service programs to help those with special needs to achieve and maintain a greater degree of economic self support and self reliance, to prevent neglect, abuse, or exploitation of children and adults who are unable to protect their own interests, to prevent or reduce inappropriate institutional care, and to secure referral or admission for institutional care when other forms of care are not appropriate. (3-18-99)

**05. TAFI.** Temporary Assistance to Families in Idaho. (3-18-99)

**06. Target Population.** Group of persons, residing within a defined geographical area, who are identified as being at risk for an adverse social or health condition or combination of conditions and whom the program is designed to serve. (3-18-99)

**07. Title IV-E.** Title under the Social Security Act which provides funding for foster care maintenance and adoption assistance payments for certain eligible children. (3-20-04)

**08. Title XIX (Medicaid).** Title under the Social Security Act which provides "Grants to States for Medical Assistance Programs." (3-18-99)

**09. Title XXI.** (Children's Health Insurance Program). Title under the Social Security Act which provides access to health care for uninsured children under the age of nineteen (19). (3-18-99)

**10. Tribal Court.** A court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings. (3-18-99)

**11. Unmarried Parents' Services.** Unmarried parent(s) services are aimed at achieving or maintaining self-reliance or self-support for unmarried parent(s). These services include counseling for all unmarried parent(s) who need such service in relation to their plans for their children and arranging for and paying for prenatal and confinement care for the well-being of the parent and infant. (3-30-07)

**12. Voluntary Services Agreement.** A written and executed agreement between the Department and parent(s) or legal guardian(s) regarding the goal, areas of concern, desired results, and task responsibility, including payment. A children's mental health family services plan is the Voluntary Service Agreement. (3-30-07)

**014. -- 019. (RESERVED).**

**GENERAL REQUIREMENTS AND SERVICES**  
**(Sections 020 -- 239)**

**020. GENERAL REQUIREMENTS APPLICABLE TO ALL FAMILY AND CHILDREN'S SERVICES PROGRAMS.**

**01. Information, Referral and Screening.** All residents of the state of Idaho, regardless of the duration of their residency or their income are entitled to receive, upon referral or request: (3-30-07)

**a.** Accurate and current information about services to children and families provided through the Department. (3-18-99)

**b.** Referral to other appropriate public or private services available in the community; and (3-18-99)

**c.** A screening to determine service needs and safety threats that can be addressed through Family and Children's Services. (3-30-07)

**02. Initiating Family and Children's Services.** Family and children's services are initiated upon referral for services that the program is legally mandated to provide or after completion of a written voluntary request for services. Efforts will be made to identify any Indian children in the family and all possible tribes in which a child may be a member or eligible for membership. (3-30-07)

**03. Individual Authorized to Request Voluntary Services.** Requests for voluntary services must be made by a family member or by an authorized representative, or by someone acting on behalf of an incompetent or incapacitated person. (3-30-07)

**04. Record of Request for Services.** The date of referral or request for services will be documented in the records of the field office. (3-30-07)

**05. Information to Be Provided to Family.** Upon referral or application for services, the family services worker must inform the family that: (3-30-07)

**a.** They have the right to accept or reject services offered by the Department, except those services imposed by law or by a court order; (3-18-99)

**b.** Fees may be charged for certain services, and that the parent(s) or legal guardian(s) has financial responsibility for the child in care; (5-3-03)

c. They have the right to pursue an administrative appeal of any decision of Family and Children's Services relating to them, including but not limited to any decision not to provide services or to discontinue planned services; the Department's failure to act upon a referral or request for services within thirty (30) days; or an decision to remove a child from an alternate care placement unless court-ordered or court-authorized. (3-18-99)

**021. -- 029. (RESERVED).**

**030. CORE FAMILY AND CHILDREN'S SERVICES.**

The following core services are the state and federally mandated services provided by or through regional Family and Children's Services offices: (3-30-01)

**01. Crisis Services.** Crisis Services are an immediate response to assure safety when a child is believed to be in imminent danger as a result of child abuse or neglect or to be in imminent danger of causing life-threatening harm to self or someone else due to a serious emotional disturbance. Crisis services require immediate access to services, twenty-four (24) hours per day, seven (7) days per week to assess risk and place in alternate care, if necessary, to assure safety for the child. (3-30-01)

**02. Service Management.** Also referred to as case management. The goals of service management are to assure and coordinate family assessment, service planning, treatment and other services, protection of children, planning for permanency, advocacy, review and reassessment, documentation and timely closure of cases. (3-30-01)

**03. Screening Services.** Initial contact with families and children to gather information to determine whether or not the child meets eligibility criteria to receive services as a member of the target population for Child Protection, Adoptions, and/or Children's Mental Health Services. When eligibility criteria is not met for Department mandated services, appropriate community referrals are made. (3-30-01)

**04. Assessment and Safety/Service Planning Services.** Process in which the safety threats to the family's concerns, strengths, and resources are identified. Based on this assessment, a written plan is developed together by the worker, the family and other interested parties. Each plan will identify a long-term goal, behaviorally specific and measurable desired results, specific tasks which identify who, how, and when the tasks will be completed. (3-30-07)

**05. Preventative Services.** Community-based services which support children and families and are designed to reduce the risk of child abuse and neglect as well as serious emotional disturbance. These services can involve direct services, but are primarily implemented through community education, and partnerships with other community agencies such as schools and courts. (3-30-01)

**06. Court Ordered Services.** These services primarily involve court-ordered investigations/assessments of situations where children are believed to be at risk due to child abuse or neglect or a harm to themselves or others due to the presence of a severe emotional disturbance. (3-30-01)

**07. Alternate Care (Placement) Services.** Temporary living arrangements outside of the family home for children and youth who are victims of child abuse or neglect or children and youth with a severe emotional disturbance. These out of home placements are arranged for and financed in full or in part by the Department. Alternate care is initiated through either a court order or voluntarily through an out-of-home placement agreement. Payment will be made on behalf of a child placed in the licensed home of an individual or relative, a public or private child care institution, a home licensed, approved or specified by an Indian child's tribe, or in a state-licensed public child care institution accommodating no more than twenty-five (25) children. Payments may be made to individuals or to a public or private child placement or child care agency. (3-30-07)

**08. Community Treatment Services.** Services provided to a child and family in a community-based setting which are designed to increase the strengths and abilities of the child and family and to preserve the family whenever possible. Services include, but are not limited to: respite care; family preservation; psychosocial rehabilitative services, companion services and day treatment. (3-30-01)

**09. Interstate Compact on Out-of-State Placements.** Where necessary to encourage all possible

positive contacts with family, including extended family, placement with family members or others who are outside the state of Idaho will be considered. On very rare occasion the Department may contract with a residential facility out of state if it best serves the needs of the child and is at a comparable cost to facilities within Idaho. When out-of-state placement is considered in the permanency planning for a child, such placement will be coordinated with the respective interstate compact administrator according to the provisions of Section 16-2101 et seq., Idaho Code, the "Interstate Compact on the Placement of Children" and Section 66-1201 et seq., Idaho Code, the "Interstate Compact on Mental Health." Placements must be in compliance with all state and federal laws. (3-30-07)

**10. Independent Living.** The assessment, planning, and provision of services to eligible youth to promote self-reliance and successful transition to adulthood. Eligibility requirements for Independent Living services include: youth must be between fifteen (15) and twenty-one (21) years of age; youth's care must be the responsibility of the Department or tribal agency as established by a court order or voluntary agreement with the youth's family; and placed in foster care or similar setting for ninety (90) consecutive days. Once established, a youth's eligibility is maintained up to their twenty-first birthday, regardless of whether they continue to be the responsibility of the Department, tribe, or are in foster care. (3-30-01)

**11. Adoption Services.** Department services designed to promote and support the permanency of children with special needs through adoption. This involves the legal and permanent transfer of all parental rights and responsibilities to the family assessed as the most suitable to meet the needs of the individual child. Adoption services also seeks to build the community's capacity to deliver adoptive services. (3-30-01)

**12. Administrative Services.** Regulatory activities and services which assist the Department in meeting the goals of safety, permanency, health and well-being for children and families. These services include but are not limited to: (3-30-01)

- a. Child care licensing; (3-30-01)
- b. Day care licensing; (3-30-01)
- c. Community development; (3-30-01)
- d. Contract development and monitoring; and (3-30-01)
- e. Pre-authorization of care. (3-30-01)

**031. -- 039. (RESERVED).**

**040. FAMILY SERVICES PRACTICE.**

The goal of all Family and Children's Services Programs is the safety, permanency and well-being of children, as well as promoting the stability and security of Indian tribes and families. These goals are achieved through documented compliance with the Idaho's Child Protective Act, Children's Mental Health Services Act, Adoption of Children Act, and Termination of Parent and Child Relationship Act, and the following federal public laws: Adoption Assistance and Child Welfare Act; the Adoption and Safe Families Act; the Multiethnic Placement Act and its Interethnic Adoption Provisions; and the Indian Child Welfare Act. (3-30-01)

**041. -- 049. (RESERVED).**

**050. PROTECTIONS AND SAFEGUARDS FOR CHILDREN AND FAMILIES.**

The federal and state laws which are the basis for these rules include a number of mandatory protections and safeguards which are intended to assure timely permanency for children and to protect the rights of children, their families and their tribes. (3-30-01)

**01. Reasonable Efforts.** Services offered or provided to a family intended to prevent or eliminate the need for removal of the child from the family, to reunify a child with their family, to finalize a permanent plan, or prevent a seriously emotionally disturbed child from having to move to a more restrictive setting. Efforts must be made as follows and specifically documented by the Department in reports to the court. The court will make the determination of whether or not the Department's efforts were reasonable: (5-3-03)

- a. Efforts to prevent or eliminate the need for a child to be removed from his home; and (5-3-03)
  - b. Efforts to return a child home are not required due to a judicial determination of aggravated circumstances; and (5-3-03)
  - c. Efforts to finalize a permanent plan, so that each child in the Department's care will have a family with whom the child can have a safe and permanent home. (5-3-03)
- 02. Active Efforts.** For an Indian child, a description of the active efforts made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family; that these efforts have proved unsuccessful; and that based on qualified expert information, continued custody by the parent(s) or Indian custodian(s) is likely to result in serious emotional or physical damage to the child. (5-3-03)
- 03. ICWA Preferences.** If appropriate, application of the placement preference for placement in accordance with the Indian Child Welfare Act, or a detailed explanation of good cause for not applying the preferences. (3-18-99)
- 04. Least Restrictive Setting.** Efforts will be made to assure that any child in the Department's care, especially those children in care due to an emotional or behavioral disturbance, reside in the least restrictive, most family-like setting possible. Placement will be made in the least restrictive setting and in close proximity to the parent(s) or if not, written justification that the placement is in the best interest of the child. For an Indian child, placement in the least restrictive setting is that setting which most approximates a family and is within reasonable proximity to the child's home taking into account any special needs of the child. (3-30-07)
- 05. Legal Requirements for Indian Children.** In the case of an Indian child, notice of the pending proceeding must be sent by Certified Mail, Return Receipt Requested to the parent(s) or Indian custodian(s) and the Indian child's tribe, including notice of their right to intervene; their right to twenty (20) days additional time to prepare for the proceeding; the right to appointment of counsel if the parent(s) or Indian custodian(s) is indigent; the right to examine all documents filed with the court upon which placement may be based; and the right to withdraw consent to a voluntary foster placement. (3-30-07)
- 06. Visitation for Child's Parent(s) or Legal Guardian(s).** Visitation arrangements must be provided to the child's parent(s) or legal guardian(s) unless visitation is contrary to the child's safety. (3-30-07)
- 07. Notification of Change in Placement.** Written notification to the child's parent(s) or legal guardian(s) within seven (7) days of a change of placement of the foster child if a child is relocated to another foster care setting, or similar notice to the parent(s) or Indian custodian(s) of an Indian child, and the Indian child's tribe, which includes the information described in Section 051 of these rules entitled Notice Required for ICWA. (5-3-03)
- 08. Notification of Change in Visitation.** Written notification to the child's parent(s) or legal guardian(s) if there is to be a change in their visitation schedule with their child or ward in foster care. (5-3-03)
- 09. Notification of Right to Participate and Appeal.** Written notification to the child's parent(s) or legal guardian(s) must be made regarding their right to discuss any changes and the opportunity to appeal if they disagree with changes in placement or visitation. (3-30-07)
- 10. ICWA Placement Preferences.** Compliance with the foster care placement preferences of the Indian Child Welfare Act. (3-18-99)
- 11. Compliance with Requirements of the Multiethnic Placement Act and Interethnic Adoption Provisions.** (3-30-01)
- 12. Family Decision Making and Plan Development.** (3-30-01)
- a. A family plan will be completed within thirty (30) days of the date the case was opened. (3-30-07)



**b.** Families will be given ample opportunity to participate in the identification of areas of concern, their strengths and developing service goals and tasks. The family plan and any changes to it must be signed and dated by the family. If the family refuses to sign the plan, the reason for their refusal will be documented on the plan. (3-30-07)

**c.** Plans are to be reviewed with the family no less frequently than once every three (3) months. When there are major changes to the plan including a change in the long term goal, the family plan must be renegotiated by the Department and the family as well as signed by the family. A new plan must be negotiated at least annually. (3-30-01)

**13. Compelling Reasons.** Reasons why the parental rights of a parent of a child in the Department's care and custody should not be terminated when the child has been in the custody of the Department for fifteen (15) out of the most recent twenty-two (22) months. These reasons must be documented in the Alternate Care Plan, in a report to the court, and the court must make a determination if the reasons are sufficiently compelling. A compelling reason must be documented when a child's plan for permanency is not adoption, guardianship, or return home. When compelling reasons are not appropriate, the petition for termination of parental rights must be filed by the end of the child's fifteenth month in foster care. (5-3-03)

**14. ASFA Placement Preferences.** The following placement preferences will be used when recommending and making permanency decisions: (3-30-01)

- a.** Return home if safe to do so; (3-30-01)
- b.** Adoption or legal guardianship by a relative; (3-30-01)
- c.** Adoption or legal guardianship by kin; (3-30-01)
- d.** Adoption or legal guardianship by non-relative; (3-30-01)
- e.** Other planned permanent placement such as long-term foster care. (3-30-01)

**051. NOTICE REQUIRED FOR ICWA.**

Wherever these rules require notice to the parent(s) or custodian(s) and tribe of an Indian child, notice shall also be provided to the Secretary of the Interior by certified mail with return receipt requested to Department of the Interior, Bureau of Indian Services, Division of Social Services, Code 450, Mail Stop 310-SIB, 1849 C Street, N.W., Washington, D.C. 20240. In addition, pursuant to 25 CFR Section 23.11, copies of such notices shall be sent by certified mail with return receipt requested to the Portland Area Director, Bureau of Indian Affairs, 911 NE 11th Avenue, Portland, OR 97232. If the identity or location of the parent(s) or Indian custodian(s) and the tribe cannot be determined, notice of the proceeding shall be given to the Secretary, who shall provide notice to the parent(s) or Indian custodian(s) and tribe. (5-3-03)

**052. -- 059. (RESERVED).**

**060. FAMILY CASE RECORDS.**

**01. Electronic and Physical Files.** The Department shall maintain an electronic file and a physical file containing information on each family receiving services. The physical file shall contain non-electronic documentation such as originals and/or original copies of all court orders, birth certificates, social security cards and assessment information which is original outside the Department. (3-30-01)

**02. Storage of Records.** All physical family case records shall be stored in a secure file storage area, away from public access and retained not less than five (5) years after the case is closed, after which they may be destroyed, except complete family case records involving adoptive placements shall be forwarded to the Department's central adoption unit for permanent storage. Case records involving Indian children shall be available at any time at the request of an Indian child's tribe or the Secretary of the Interior. The confidentiality of family case records is to be maintained in accordance with the provisions of Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Use and Disclosure of Department Records." (3-30-01)

**061. -- 069. (RESERVED).**

**070. STANDARDS FOR SAFEGUARDING INFORMATION CONCERNING APPLICANTS AND RECIPIENTS OF SERVICES.**

Protection and disclosure of Department records is governed by Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Use and Disclosure of Department Records." (3-18-99)

**071. -- 239. (RESERVED).**

**REVIEWS AND HEARINGS**  
**(Sections 240 -- 399)**

**240. SIX MONTH REVIEWS CONDUCTED BY THE DEPARTMENT.**

Unless a judicial review occurs at the end of a six (6) month period in a Child Protective Act placement or other out of home placement including placements under the Children's Mental Health Services Act, placements of children where the Department is the child's guardian, the Department will conduct an individual family case review to assure compliance with all applicable state and federal laws, and to ensure the plan focuses on the goals of safety, permanency and well-being of the child. (3-30-07)

**01. Notice of Six Month Review.** The parent(s) or legal guardian(s), foster parents of a child and any preadoptive parent(s) or relative(s) providing care for the child and an Indian child's tribe, if appropriate, are to be provided with notice of and an opportunity to be heard in the six (6) month review. This must not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party solely to the review on the basis of such notice and opportunity to be heard. Participants have the right to be represented by the individual of their choice. (3-30-07)

**02. Procedure in the Six Month Review.** The parties will be given the opportunity for face-to-face discussion including attending, asking questions and making statements. (3-30-07)

**03. Members of Six Month Review Panel.** The review team must include a Department employee who is not in the direct line of supervision in the delivery of services to the child or parent(s) or legal guardian(s) being reviewed. The review panel may include agency staff, staff of other agencies, officers of the court, members of Indian tribes and citizens qualified by experience, professional background or training. Members of the panel will be chosen by the regional director and receive instructions from the Family and Children's Services Program Manager or his designee to enable them to understand the review process and their roles as participants. (3-30-07)

**04. Considerations in Six Month Review.** Whether conducted by the court in a review hearing or a Department review panel, under State law, Federal law and regulation, at least each of the following must be addressed: (3-30-07)

- a.** Determine the extent of compliance with the family services plan; (5-3-03)
- b.** Determine the extent of progress made toward alleviating or mitigating the causes necessitating the placement; (5-3-03)
- c.** Review compliance with the Indian Child Welfare Act, when applicable; (5-3-03)
- d.** Determine the safety of the child, the continuing need for and appropriateness of the child's placement; and (5-3-03)
- e.** Project a likely date by which the child may be returned and safely maintained at home or placed for adoption, legal guardianship or other permanent placement. (5-3-03)

**05. Recommendations and Conclusions of Six Month Review Panel.** Following the review, written

conclusions and recommendations will be provided to all participants, subject to Department safeguards for confidentiality. The decision must also provide appeal rights. (3-30-07)

**241. -- 249. (RESERVED).**

**250. PERMANENCY HEARINGS.**

By the provision of Public Law 105-89, Adoption and Safe Families Act, and Idaho Code, every child in alternate care under state supervision must also have a Permanency Hearing conducted by the court or a court designee. Permanency Hearings shall be held no later than every twelve (12) months after the date of the child's removal and no later than every twelve (12) months thereafter as long as the child remains under the care and custody of the Department. A twelve (12) month Permanency Hearing shall be held by the court having jurisdiction in the case, if that is the preference of the court. If the court does not wish to conduct this hearing, the court may appoint a hearing officer. The appointed hearing officer may not be supervised or reimbursed by the Department. (3-30-01)

**01. Attendance at Permanency Hearings.** The Permanency Hearing shall include, at a minimum, the child's parent(s) or legal guardian(s), foster parent(s) of a child, any preadoptive parent(s) or relative(s) providing care for the child, and/or the child's Indian tribe, if appropriate. Parties shall be provided, by the court, with written notice of the hearing and opportunity to be heard. This shall not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party to the hearing solely on the basis of such notice and opportunity to be heard. (5-3-03)

**02. Judicial Determinations.** (3-30-01)

**a.** The court or designee officer shall determine if the Department has made reasonable efforts to finalize a permanent plan for the child and issue an order specifying the permanent plan. (3-30-01)

**b.** In cases where the Department has documented, in the alternate care plan component of the family's service plan, compelling reasons for not terminating the parent and child relationship and for placing the child in long-term alternate care, the court shall review and determine if the compelling reasons exist. (5-3-03)

**251. CITIZEN REVIEW PANELS.**

The Department shall have Citizen Review Panels in each region to review child protection cases. (3-18-99)

**252. -- 399. (RESERVED).**

**ALTERNATE (OUT-OF-HOME) CARE**  
**(Sections 400 -- 424)**

**400. AUTHORITY FOR ALTERNATE CARE SERVICES.**

Upon approval of the Regional Family and Children's Services Program Manager or his designee, the Department may provide or purchase alternative care under the following conditions: (3-30-07)

**01. Department Custody.** When the child is in the legal custody or guardianship of the Department; or (3-18-99)

**02. Voluntary Placement.** Upon agreement with the parent(s) or legal guardian(s) when circumstances interfere with their provision of proper care or they are no longer able to maintain a child with serious emotional disturbance in their home and they can benefit from social work and treatment services. A service plan and an out-of-home placement agreement must be developed between the Department and the family. The service plan will identify areas of concern, goals, desired results, time frames, tasks and task responsibilities. The out-of-home placement agreement will include the terms for reimbursement of costs with any necessary justification for deviation from Child Support guidelines. A voluntary agreement for out-of-home placement entered into between the Department and the parent(s) or legal guardian(s) of a minor child may be revoked at any time by the child's parent(s) or legal guardian(s). A contract between the Department and the service provider, if applicable, must also be in effect. Voluntary out-of-home placements exceeding one hundred eighty (180) days without a judicial determination that it is in the best

interests of the child to continue his current placement, cannot be reimbursed by Title IV-E funds. (3-30-07)

**401. CONSIDERATIONS FOR PLACEMENT IN ALTERNATE CARE.**

The Department shall make meaningful reasonable attempts, both verbally and in writing, to inform in priority order, individuals identified below of the potential imminent placement and the requirements for consideration as a placement resource. The Department shall place children in a safe and trusted environment consistent with the best interest and special needs of the children as required by P.L.96-272, Section 475(5). Ideally, placement priority shall be given in the following order: a) Immediate family; b) Extended family members; c) Non-family members with a significant established relationship with the child; d) other licensed foster parent(s). Upon immediate contact with persons in categories a) through d) above, and after preliminary screening, within seventy-two (72) hours of decision to place, Departmental staff shall make reasonable attempts to inform immediate family members of the way to become a placement resource. Alternate care placement shall in all cases include consideration of: (5-3-03)

**01. Family Assessment.** The family assessment conducted in accordance with the provisions of the FACS Practice Manual. (3-30-01)

**02. Ability of Providers.** The ability of potential alternate care providers to address and be sensitive to the unique and individual needs of the child and ability to comply and support the plan for the child and their family. (3-18-99)

**03. Family Involvement.** The involvement of the family in planning and selecting the placement. The Department shall use a family unity meeting concept making reasonable efforts to gather immediate and extended family members and other significant supporters to identify family strengths relevant to creating a safe environment for the child. This process will be fully reported to the court along with resulting plans and commitments. (3-18-99)

**402. INVOLUNTARY PLACEMENT OF INDIAN CHILDREN.**

Involuntary placement of an Indian child in foster care must be based upon clear and convincing evidence, including information from qualified expert witnesses, that the continued custody of the child by the parent(s) or Indian custodian(s) is likely to result in serious emotional or physical damage to the child. Foster care placement shall be in the least restrictive setting that most approximates a family and in which any special needs may be met. In the absence of good cause to the contrary, a preference shall be given to placement with: (5-3-03)

**01. Extended Family.** A member of the Indian child's extended family; (3-18-99)

**02. Foster Home Approved by Tribe.** A foster home licensed, approved, or specified by the Indian child's tribe; (3-18-99)

**03. Licensed Indian Foster Home.** An Indian foster home licensed or approved by an authorized non-Indian licensing authority; or (3-18-99)

**04. Indian Institution.** An institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the child's needs. (3-18-99)

**403. DATE A CHILD ENTERED FOSTER CARE.**

A child is considered to have entered foster care on the date the child is actually removed from their home. All foster care benefits and eligibility determinations shall be based on this date. All periodic reviews, permanency hearings, and time frames for termination of parental rights shall be based on the date the child entered foster care. (5-3-03)

**404. (RESERVED).**

**405. ALTERNATE CARE CASE MANAGEMENT.**

Case management must continue while the child is in alternate care and must ensure the following: (3-30-07)

**01. Preparation for Placement.** Preparing a child for placement in alternate care is the joint responsibility of the child's family, the child (when appropriate), the family services worker and the alternate care provider. (3-30-07)

**02. Information for Alternate Care Provider.** The Department and the family must inform the alternate care provider of their roles and responsibilities in meeting the needs of the child including: (3-30-07)

- a.** Any medical, health and dental needs of the child including the names and address of the child's health and educational providers, a record of the child's immunizations, the child's current medications, the child's known medical problems and any other pertinent health information concerning the child; (3-18-99)
- b.** The name of the child's doctor; (3-18-99)
- c.** The child's current functioning and behaviors; (3-18-99)
- d.** The child's history and past experiences and reasons for placement into alternate care; (3-30-01)
- e.** The child's cultural and racial identity; (3-18-99)
- f.** Any educational, developmental, or special needs of the child; (3-18-99)
- g.** The child's interest and talents; (3-18-99)
- h.** The child's attachment to current caretakers; (3-18-99)
- i.** The individualized and unique needs of the child; (3-18-99)
- j.** Procedures to follow in case of emergency; and (3-18-99)
- k.** Any additional information, that may be required by the terms of the contract with the alternate care provider. (3-18-99)

**03. Consent for Medical Care.** Parent(s) or legal guardian(s) must sign a Departmental form of consent for medical care and keep the family services worker advised of where they can be reached in case of an emergency. Any refusal to give medical consent must be documented in the family case record. (3-30-07)

**04. Financial Arrangements.** The family services worker must assure that the alternate care provider understands the financial and payment arrangements and that necessary Department forms are completed and submitted. (3-30-07)

**05. Contact with Child.** The family, the family services worker, the alternate care provider and the child, if of appropriate developmental age, must establish a schedule for frequent and regular visits to the child by the family and by the family services worker or designee. (3-30-07)

- a.** Face-to-face contact in the alternate care setting with the child by the family services worker must occur at least monthly or more frequently depending on the needs of the child or the provider, or both, and the stability of the placement. (3-30-07)
- b.** The Department will have strategies in place to detect abuse or neglect of children in alternate care. (3-30-07)
- c.** Regular contact with children placed in intensive treatment facilities, in or out-of-state, must occur at a minimum of once every ninety (90) days. (3-30-07)
- d.** Frequent and regular contact between the child and parents and other family members will be encouraged and facilitated unless it is specifically determined not to be in the best interest of the child. Such contact will be face-to-face if possible, with this contact augmented by telephone calls, written correspondence, pictures and the use of video and other technology as may be relevant and available. (3-30-07)
- e.** When a child is placed in foster care in another state, a Department family services worker must maintain at least monthly contact with the child and family with whom he has been placed as long as the state of

Idaho has custody of the child. The supervising agency in the state where the child is living is required to maintain monthly, face-to-face contact with the child and the family and make quarterly reports to the Department in accordance with arrangements made through the Interstate Compact on the Placement of Children. (3-30-07)

**06. Discharge Planning.** Planning for discharge from alternate care into family services that follow alternate care will be developed with all concerned parties. Discharge planning will be initiated at the time of placement and completed prior to the child's return home or to the community. (3-30-07)

**07. Transition Planning.** Planning for discharge from alternate care into a permanent placement will be developed with all concerned parties. Discharge planning will be initiated at the time of placement and completed prior to the child's return home or to the community. (3-30-07)

**08. Financial and Support Services.** As part of the discharge planning, Departmental resources will be coordinated to expedite access to Department financial and medical assistance and community support services. (3-30-07)

**406. -- 421. (RESERVED).**

**422. ALTERNATE CARE PLANNING.**  
Alternate care planning is mandated by the provisions of Sections 471(a)(15) and 475, P.L.96-272. (3-18-99)

**01. Alternate Care Plan Required.** Each child receiving alternate care under the supervision of the state shall have a standardized written alternate care plan. (3-30-01)

**a.** The purpose of plan shall be to facilitate the safe return of the child to his or her own home as expeditiously as possible or to make other permanent arrangements for the child if such return is not feasible. (3-18-99)

**b.** The alternate care plan shall be included as part of the family service plan. (3-30-01)

**02. Development of the Alternate Care Plan.** The alternate care plan shall be developed within thirty (30) days after a decision has been made to place a child in alternate care. (3-18-99)

**a.** The parent(s) or legal guardian(s) and the child, to the extent possible, shall be involved in planning, selecting, and arranging the alternate care placement and any subsequent changes in placement. (5-3-03)

**b.** The plan shall include documentation that the parent(s) or legal guardian(s) have been provided written notification of: (5-3-03)

**i.** Visitation arrangements made with the alternate care provider, including any changes in their visitation schedule; (3-18-99)

**ii.** Any change of placement immediately, and at the latest within seven (7) days, when the child is relocated to another alternate care or institutional setting; and (3-18-99)

**iii.** Their right to discuss any changes and to seek recourse if they disagree with any changes in visitation or other alternate care arrangements. (3-30-01)

**c.** All parties involved in the alternate care plan, including the alternate care provider, parent(s) or legal guardian(s) and the child if of appropriate developmental age: (5-3-03)

**i.** Will be required to sign a statement indicating that they have read and understood the alternate care plan; and (3-18-99)

**ii.** Will receive a copy of the alternate care plan. (3-18-99)

**423. -- 424. (RESERVED).**

**ELIGIBILITY AND FUNDING INFORMATION**  
**(Sections 425 -- 441)**

**425. AID TO FAMILIES WITH DEPENDENT CHILDREN -- FOSTER CARE (AFDC-FC) ELIGIBILITY.**

A child is eligible for Aid To Families With Dependent Children-Foster Care (AFDC-FC) if the child would have been eligible to receive AFDC aid payments except that he was removed, by court order, from the home of a parent(s) or other caretaker relative(s) and placed in foster care. AFDC-FC is also available to eligible children voluntarily placed in foster care by a parent(s). The caretaker relative(s) is the relative(s) who exercises day-to-day physical custody of the child prior to the court action or voluntary placement. The child may qualify for AFDC payments as a child living with a relative. Eligibility for AFDC-FC is determined by Family and Community Services. (4-6-05)

**426. AFDC-FC ELIGIBILITY REQUIREMENTS.**

A child is eligible for AFDC-FC if he meets each of the eligibility requirements listed in Table 426.

<b>AFDC-FC ELIGIBILITY REQUIREMENTS -- TABLE 426</b>	
<b>CONDITION</b>	<b>DESCRIPTION</b>
<b>01. Financial Need.</b>	A child is in financial need if, in the month court action to remove him from his home was initiated, or the month the voluntary out-of-home placement agreement is signed: He was receiving AFDC; He would have been eligible to receive AFDC if an application had been filed on his behalf; or He lived with his parent(s) or other caretaker relative(s) at some time within six (6) prior months and would have qualified for AFDC in the month of court action or voluntary placement if an application had been filed and he lived with a parent(s) or other specified relative(s) in that month.
<b>02. Voluntary Placement in Foster Home or Voluntary Relinquishment.</b>	A foster care placement is voluntary if the parent(s) has a written agreement with the Department to place the child in foster care. The parent retains parental rights and may terminate the agreement at any time.  A voluntary relinquishment is not a voluntary placement. A voluntary relinquishment occurs when parent(s) permanently gives up rights to a child. A court order is required for a voluntarily relinquished child to qualify for AFDC-FC.
<b>03. Age, Residence, Citizenship, and Deprivation.</b>	The other AFDC requirements the child must meet are: Age; Residence; Citizenship; Deprivation; and The AFDC resource limit.

AFDC-FC ELIGIBILITY REQUIREMENTS -- TABLE 426	
CONDITION	DESCRIPTION
04. Court Ordered Removal.	<p>A child not voluntarily placed must have been removed from the parent(s) or other caretaker relative(s) by court order. The initial court order must state remaining in the home would be "contrary to the welfare" of the child.</p> <p>For children removed on or after October 1, 1983, the court order must include a determination that reasonable efforts were made to prevent or eliminate the need for removal of the child. This judicial determination must be made within sixty (60) days of removal of the child from his home.</p> <p>The court order must state what reasonable efforts were made considering the family's circumstances and the safety of the child when the child is removed from the home in an emergency. When there is a judicial determination of Aggravated Circumstances, the court order must state that no reasonable efforts to reunify the family are required.</p>
05. Custody and Placement.	<p>The child's placement and care are the Department's responsibility. The child must live in a licensed foster home, licensed institution, licensed group home, or in a licensed relative's home.</p>

(4-6-05)

**427. DETERMINATION OF ELIGIBILITY FOR ADC-FC.**

The family services workers shall initiate an application to ensure that eligibility for ADC-FC is made, or that the child is clearly ineligible because of family resources. The worker shall maintain documentation of the eligibility determination or ineligibility in the case record of the child, and arrangements for parental support. If the child is ineligible for AFDC-FC, the family services worker must determine whether the child qualifies for Medicaid as a Title XIX foster child. (3-30-01)

**428. CUSTODY AND PLACEMENT.**

The child's placement and care are the Department's responsibility. The child must live in a licensed foster home, licensed institution, licensed group home, or in a licensed relative's home. (3-30-01)

**01. Interstate Placements.** In interstate placements, a child may be placed with an approved unlicensed relative when delaying the placement would be harmful to the child's well-being. In those cases, a subsequent request for foster care licensure will be made through the Interstate Compact on the Placement of Children. (3-30-07)

**02. Intrastate Placements That Become Interstate Placements.** If a foster care placement that was initially intrastate becomes an interstate placement because the family with whom the child is placed relocates to another state, a request for foster care licensure will be made through the Interstate Compact on the Placement of Children immediately upon the decision to move the child. If the state to which the family has moved accepts the family's Idaho foster care license as effective, the placement is considered licensed until a determination is made that the family is in compliance with the licensing and other applicable laws of the state to which the family has moved. (3-30-07)

**429. EFFECTIVE DATE.**

AFDC-FC eligibility can begin as early as the first day of the month all eligibility factors are met, with the following exceptions: A child cannot receive AFDC and AFDC-FC or SSI and AFDC-FC in the same month; and AFDC-FC cannot begin until the month after the last month the child's needs were included in an AFDC grant or the child received SSI. (3-30-01)



**430. ONGOING ELIGIBILITY.**

To continue eligibility for AFDC-FC, a child must meet each of the eligibility conditions listed in Table 430.

<b>CONTINUING ELIGIBILITY CONDITIONS, TABLE 430</b>	
<b>CONDITION</b>	<b>DESCRIPTION</b>
<b>01. Financial Need.</b>	The child's own income, after any applicable AFDC income exclusions and disregards, must not exceed the foster care need standard established for him by the Department.
<b>02. AFDC Factors.</b>	The child must continue to meet the following AFDC eligibility factors. Age; Residence; Citizenship; Resource limits; and Deprivation. (A child who has been removed from the home of a caretaker relative who is not his parent, meets the deprivation requirement without review.)
<b>03. Ongoing Custody and Placement.</b>	The child must remain in the Department's custody through either a current court order or a voluntary placement agreement that has not been in effect more than one hundred and eighty (180) days. They must continue to live in a licensed foster home, licensed institution, licensed group home, or a licensed relative's home.
<b>04. Redetermination.</b>	<p>The child's eligibility for AFDC-FC must be redetermined at least once every six (6) months.</p> <p>A redetermination, rather than an initial eligibility determination, is used for a child who left foster care, was placed in a non-AFDC-FC living situation such as a hospital or detention center, did not return home, remained in the Department's custody throughout his absence, and returned to foster care. Any return home other than a visit requires a new judicial determination or a new agreement and a new determination of eligibility based on current circumstances.</p> <p>Annual Review: An annual redetermination is required to assure that the court has determined that the Department has made reasonable efforts to finalize a permanent plan for the child. This is done at the Permanency Hearing held every twelve (12) months from the date of removal until the child is either adopted or placed in legal guardianship.</p> <p>The foster care payment standard is also the child's eligibility income limit for determining continued eligibility for AFDC-FC.</p>
<b>05. Other Eligibility Considerations.</b>	<p>The following must be considered for AFDC-FC eligibility:</p> <p>A child's eligibility does not depend on the availability of a home to which he can return;</p> <p>The Department must provide services designed to allow the child to return home, where not possible, the family's worker must aggressively pursue other permanent options for the child;</p> <p>A child receiving AFDC-FC who becomes available for adoption, remains eligible to receive AFDC-FC until he is legally adopted. The child must otherwise qualify for AFDC-FC;</p> <p>The child must not receive AFDC-FC and SSI, or AFDC-FC and AFDC, in the same month.</p>

(4-6-05)

**431. AFDC-FC AND SSI ELIGIBILITY.**

When a child is eligible for both AFDC-FC and SSI, the caretaker relative(s) or the family services worker, in consultation with the child's family, must choose the type of payment the child will receive. (5-3-03)

**432. TITLE XIX FOSTER CHILD.**

A foster child residing in a foster home, children's agency or children's institution approved by the department is eligible for Title XIX Medicaid if he satisfied all of the following conditions: (3-30-01)

**01. Eligibility Conditions.** A foster child is eligible if: (3-30-01)

**a.** He is under age twenty-one (21); (3-30-01)

**b.** He is not a recipient of AFDC-FC or SSI; (3-30-01)

**c.** A departmental program other than the Medical Assistance or Welfare Programs has assumed full or partial financial responsibility for him; (3-30-01)

**d.** His countable resources do not exceed the AFDC resource limit. In addition to the AFDC resource exclusions, the child may have an additional amount up to five thousand dollars (\$5,000) excluded if held in trust for him; (3-30-01)

**e.** After applying the applicable AFDC income exclusions and earned income disregards, an additional income disregard of seventy dollars (\$70) is deducted; and (3-30-01)

**f.** Total income must not exceed two hundred thirteen dollars (\$213) monthly. (3-30-01)

**02. Ongoing Eligibility.** If a foster child is determined eligible to receive Title XIX Medicaid, the following provisions apply: (3-30-01)

**a.** His eligibility must be redetermined at least once every six (6) months. (3-30-01)

**b.** His eligibility must cease and other funding sources for medical care must be utilized if the foster home's license is revoked or expires and an application for license renewal is not on file, or if the child returns to his own home even if the Department retains legal custody of such child. (3-30-01)

**03. Hospitalized Foster Child.** Where a child who is otherwise eligible for Title XIX Medicaid as a foster child is placed in a hospital prior to being physically placed in foster care, the child is considered to be living in a licensed foster care situation if the regional team appointed to review hospitalization of foster children certified in writing that the plan for the child is to place him in foster care immediately upon discharge from the hospital. The certification must include the estimated date on which the child will enter foster care. (3-30-01)

**433. INCOME, BENEFITS AND SAVINGS OF CHILDREN IN FOSTER CARE.**

On behalf of the child and with the assistance of RDU staff, family services workers shall identify and apply for income or benefits from (one (1) or) every available source including Social Security, veterans' benefits, tribal benefits, or estates of deceased parents. The address of the payee shall be DHW-FACS-RDU, 450 West State Street, P. O. Box 83720 Boise, ID 83720-0036. (3-30-01)

**434. FORWARDING OF BENEFITS.**

If the Department is receiving benefits and the child is returned to the home of the parent(s) or legal guardian(s) or relatives for a trial visit, Child Support Services shall be notified by memo from a family services worker giving the name and address of the person to whom these benefits shall be forwarded. (5-3-03)

**01. Return to Alternate Care.** If the child returns to alternate care, the Department shall be notified immediately of the correct payee. (3-18-99)

**02. Review After Six Months.** If an alternative care placement continues for a period of six (6) months, a careful review must be initiated to determine if a change of payee must be accomplished. (3-18-99)

**435. PERIODIC REVIEW OF BENEFITS FROM BUREAU OF INDIAN AFFAIRS (BIA).**  
Field offices must contact the Bureau of Indian Affairs and review periodically benefits that may be available to children in foster care. (3-18-99)

**436. FINANCIAL SUPPORT FOR CHILDREN IN ALTERNATE CARE.**  
In accordance with Section 56-203B, Idaho Code, parents are responsible for costs associated with the care of their child or children. Upon consideration of any alternate care for a child: (3-18-99)

**01. Notice of Parental Responsibility.** The Department shall provide the parents(s) or legal guardian(s) written notification of their responsibility to contribute toward the cost of their child's support, treatment and care, including but not limited to clothing, medical, incidental and educational costs. (5-3-03)

**02. Financial Arrangements with the Parent(s) or Legal Guardian(s).** When children are placed in alternate care pursuant to court order or voluntary agreement, the parent(s) or legal Guardian(s) shall be expected to reimburse the Department for the costs of care. (5-3-03)

**a.** The amount of support shall be based on the parent(s) or legal guardian(s) income, the costs of care for the child and any unique circumstances affecting the parent(s) or legal guardian(s) ability to pay. (5-3-03)

**b.** Every family shall be expected to contribute to the cost of their child's care, but no family shall be asked to pay more than the actual cost of care, including clothing, medical, incidental and educational costs. The cost of room and board shall be paid by the parent(s) or legal guardian(s) to the Department, and the Department shall in turn pay the foster parents. (5-3-03)

**437. ACCOUNTING AND REPORTING.**  
DHW Division of Family and Community Services, Resource Development Unit shall account for the receipt of funds and develop reports showing how much money has been received and how it has been utilized. (3-30-01)

**438. SUPPORT AGREEMENT FOR VOLUNTARY PLACEMENTS.**  
If the placement is voluntary, the parent(s) or legal guardian(s) shall sign an agreement that specifies the amount of support to be paid, when it is to be paid the payee and the address to which it is to be paid. (5-3-03)

**439. SUPPORT IN COURT-ORDERED PLACEMENT.**  
In the case of a court-ordered placement, if no support agreement has been reached with the parent(s) or legal guardian(s) prior to the custody or commitment hearing, the Department's report to the Court shall indicate the necessity to hold a support hearing. (5-3-03)

**440. INSURANCE COVERAGE.**  
The parent(s) or legal guardian(s) shall inform the Department of all insurance policies covering the child, including names of carriers, and policy or subscriber numbers. If medical, health and/or dental insurance coverage is available for the child, the parent(s) or legal guardian(s) shall acquire and maintain such insurance. (5-3-03)

**441. REFERRAL TO CHILD SUPPORT SERVICES.**  
The family shall be referred to the State Child Support Agency for support payment arrangements. (3-18-99)

**01. Assignment of Child Support.** The Department through the Bureau of Child Support Services shall secure assignment of any support due to the child while in alternate care. Social Security and Supplemental Security Income benefits are specifically aimed at meeting the child's needs and therefore will follow the child in placement and the Department shall request to be named payee for all funds for placements extending over thirty (30) days. (3-18-99)

**02. Collection of Child Support.** The Department shall take action to collect any child support ordered in a divorce decree. (3-18-99)

**MEDICAL AND DENTAL FOR CHILDREN IN OUT-OF-HOME CARE**  
**(Sections 442 -- 479)**

**442. MEDICAID FOR CHILDREN IN ALTERNATE CARE.**

Every child placed in alternate care shall receive a medical card each month. (5-3-03)

**443. EPSDT SCREENING.**

Children in alternate care shall receive the Early Periodic Screening, Diagnosis and Treatment (EPSDT) services allowable under Medicaid. Those children already receiving Medicaid at the time of placement shall be screened within thirty (30) days after placement. Children not receiving Medicaid at the time of placement shall receive a screening within thirty (30) days from the date Medicaid eligibility is established. (3-18-99)

**444. MEDICAL EMERGENCIES.**

In case of serious illness, the alternate care provider shall notify the child's doctor and the Department immediately. The parent(s) or legal guardian(s) or the court in an emergency, or the Department if it is the guardian of the child, have the authority to consent to major medical care or hospitalization. (5-3-03)

**445. DENTAL CARE.**

Each child age three (3) who is placed in alternate care must receive a dental examination as soon as possible after placement, but not later than ninety (90) days, and thereafter according to a schedule prescribed by the dentist. (3-30-07)

**01. Costs Paid by Medicaid.** If dental care not included in the state medical assistance program is recommended, a request for payment shall be submitted to the state Medicaid dental consultant. (3-18-99)

**02. Emergencies.** For children in shelter care, emergency dental services shall be provided for and paid for by the Department, if there are no other financial resources available. (3-18-99)

**446. COSTS OF PRESCRIPTION DRUGS.**

The Department shall purchase prescribed drugs, at the Medicaid rate, for a child in alternate care through participating pharmacists, in excess of the Medicaid monthly maximum. (3-18-99)

**447. MEDICAL EXAMINATION UPON ENTERING ALTERNATE CARE.**

Within thirty (30) days of entering alternate care, each child will receive a medical examination to assess the child's health status, and thereafter according to a schedule prescribed by the child's physician or other health care professional. (5-3-03)

**448. -- 450. (RESERVED).**

**451. DRIVERS' TRAINING AND LICENSES FOR CHILDREN IN ALTERNATE CARE.**

No Department employee or foster parent is allowed to sign for any foster child's driver's license or permit without written authorization from the Family and Children's Services Program Manager. Any Department employee or foster parent signing for a foster child's driver's license or permit without the approval of the Family and Children's Services Program Manager assumes full personal responsibility and liability for any driving related damages that may be assessed against the child. Those damages will not be covered by the Department's insurance. (3-30-07)

**01. Payment by Department.** The Department may make payments for driver's training, licenses and permits for children in the Department's guardianship when obtaining a driver's license is part of an older teen's Independent Living Plan. (3-30-01)

**02. Payment by Parent(s) or Legal Guardian(s).** The parent(s) or legal guardian(s) of children in foster care may authorize drivers' training, provide payment and sign for drivers' licenses and permits. (5-3-03)

**452. -- 479. (RESERVED).**

**LICENSURE AND REIMBURSEMENT OF ALTERNATE CARE PROVIDERS**  
**(Sections 480 -- 549)**

**480. ALTERNATE CARE LICENSURE.**

All private homes and facilities providing care for children under these rules must be licensed in accordance with IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," unless foster care placement of an Indian child is made with a foster home licensed, approved or specified by the Indian child's tribe, or an institution for children approved by an Indian tribe or operated by an Indian organization. (3-30-07)

**481. FACILITIES OPERATED BY THE STATE.**

Facilities operated by the State and providing care for children pursuant to these rules shall meet the standards for child care licensure. (3-18-99)

**482. PAYMENT FOR SHELTER CARE.**

Payment for placement of children requiring temporary, emergency alternate care is twenty dollars (\$20) per day for children from birth through age seventeen (17), for a maximum of thirty (30) days of shelter care for each uninterrupted placement. (3-18-99)

**483. PAYMENT TO FAMILY FOSTER CARE PROVIDERS.**

Monthly payments for care provided by foster care families are:

<b>Family Foster Care Payments - Table 483</b>			
<b>Ages</b>	<b>0-5</b>	<b>6-12</b>	<b>13-18</b>
<b>Monthly Room and Board</b>	<b>\$274</b>	<b>\$300</b>	<b>\$431</b>

(4-6-05)

**01. Gifts.** An additional thirty dollars (\$30) for Christmas gifts and twenty dollars (\$20) for birthday gifts shall be paid in the appropriate months. (3-18-99)

**02. Clothing.** Costs for clothing shall be paid, based upon the Department's determination of each child's needs. All clothing purchased for a child in alternate care becomes the property of the child. (3-18-99)

**03. School Fees.** School fees due upon enrollment shall be paid, based upon the Department's determination of the child's needs. (3-18-99)

**484. SPECIALIZED FOSTER CARE.**

For those children who require additional care above room, board, shelter, daily supervision, school supplies, personal incidentals, the Department may pay the foster care provider an additional amount for specialized foster care above the basic foster care rate. The specialized foster care rate is based upon a continuous ongoing assessment of the child's circumstances which necessitate special rates as well as the care provider's ability, activities, and involvement in addressing those special needs. Payment will be made as follows: (3-30-01)

**01. Lowest Level of Need for Specialized Care.** Ninety dollars (\$90) per month for children requiring a mild degree of specialized care for documented conditions including but not limited to: (3-18-99)

- a.** Chronic medical problems; (3-18-99)
- b.** Frequent, time-consuming transportation needs; (3-18-99)
- c.** Behaviors requiring extra supervision and control; and (3-30-01)
- d.** Need for preparation for independent living. (3-18-99)

**02. Moderate Level of Need for Specialized Care.** One hundred fifty dollars (\$150) per month for children requiring a moderate degree of specialized care for documented conditions including but not limited to: (3-18-99)

- a. Ongoing major medical problems; (3-18-99)
- b. Behaviors that require immediate action or control; and (3-30-01)
- c. Alcohol or drug abuse. (3-18-99)

**03. Highest Level of Need for Specialized Care.** Two hundred forty dollars (\$240) per month for children requiring an extraordinary degree of specialized care for documented conditions including but not limited to: (3-18-99)

- a. Serious emotional disturbance; (3-18-99)
- b. Severe developmental disability; and (3-30-01)
- c. Severe physical disability such as quadriplegia. (3-18-99)

**04. Reportable Income.** Specialized care payments for more than ten (10) qualified foster children received during any calendar year must be reported as income to the Internal Revenue Service. (3-18-99)

**485. PROFESSIONAL FOSTER CARE.**

Placement in professional foster care for children who require professional care for clinically diagnosed emotional, behavioral, or physical problems must be based upon the documented needs of each child, including the inability of less restrictive settings to meet the child's needs and a determination that the child would require a more restrictive setting if professional foster care were not available. (3-30-07)

**01. Qualifications.** At least one (1) parent must possess a bachelor's degree or three (3) years of experience in a human service delivery setting or be otherwise licensed or certified to provide specialized social and medical care to children, and neither parent can be a Department employee. (3-30-07)

**02. Payment.** Payment will be made through a professional services contract with the Department for a basic rate and cost for social services total of one thousand dollars (\$1,000) per month per child. (3-30-07)

**03. Treatment Plan.** The professional foster parent(s) must implement a treatment plan, developed in conjunction with the child's family services worker, for each child in their care. (3-30-07)

**486. GROUP FOSTER CARE.**

Group foster care is for children who generally require more structured activities and discipline than found in a family setting. Examples are intermediate residential treatment, short-term group care, and emancipation homes. (3-18-99)

**01. Referral -- Group Foster Care.** Any referral of a child to a group foster care facility where the Department would be making full or partial payment shall be prior authorized by the Family and Children's Services Program Manager or designee. (3-30-01)

**02. Placement.** Placement shall be based on the documented service needs of each child and the ability of the group care provider to meet those needs. (3-18-99)

**03. Payment -- Group Foster Care.** Payment shall be pursuant to contract authorized by the regional director or division administrator, based on the needs of the children being placed and the services to be provided. (3-18-99)

**487. INTENSIVE TREATMENT FACILITIES.**

Children with serious emotional and/or behavior disturbance may be placed in individualized day treatment or residential care. (3-18-99)

**01. Referral -- Intensive Treatment.** Any referral of a child to an intensive treatment facility where the Department would be making full or partial payment shall be prior authorized by the Family and Children's Services Program Manager or designee. (3-30-01)

**02. Payment -- Intensive Care.** When care is purchased from private providers, payment shall be made pursuant to a contract authorized by the Family and Children's Services Program Manager, based on the needs of each child being placed and the services to be provided. When care is provided in facilities operated by the Department, payment shall be arranged in cooperation with Department fiscal officers. (3-30-01)

**488. -- 491. (RESERVED).**

**492. REIMBURSEMENT IN THE HOME OF A RELATIVE.**

Relatives licensed as a foster family must be afforded the opportunity to receive foster care reimbursement for any child(ren) placed in their home through the Department. A relative foster family may choose not to accept a foster care reimbursement and apply for a TAFI grant or provide for the child's care using their own financial resources. (3-30-01)

**493. -- 549. (RESERVED).**

**CHILD PROTECTION SERVICES**  
**(Sections 550 -- 639)**

**550. CHILD PROTECTION SERVICES.**

Sections 56-204A, 56-204B, 16-1601, 16-1629 and 16-2001, Idaho Code, make the Department an official child protection agency of state government dealing with situations of reported child abuse, abandonment, or neglect. A respectful, non-judgmental approach should be the policy for assessments, especially during the initial contact with the family. Training in communication would include multicultural and diversity issues and interest-based conflict resolution. (4-2-08)

**551. REPORTING ABUSE, ABANDONMENT OR NEGLECT.**

Professionals and other persons identified in Section 16-1619, Idaho Code, have a responsibility to report abuse, abandonment or neglect and are provided protection for reporters. (3-18-99)

**01. Ministers.** Duly ordained ministers of religion are exempt from reporting of child abuse and neglect if: (3-18-99)

**a.** The church qualifies as tax-exempt under 26. U.S.C. 501(c)(3); (3-18-99)

**b.** The confession or confidential communication was made directly to the duly ordained minister of religion; and (3-18-99)

**c.** The confession was made in the manner and context which places the duly ordained minister of religion specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church doctrine. (3-18-99)

**02. Health and Welfare Employees.** All Department of Health and Welfare personnel are responsible for recognizing and immediately reporting to Family and Children's Services or to law enforcement any concern regarding abuse, abandonment or neglect of a child or children. Failure to report as required by Section 16-1619(b), Idaho Code, is a misdemeanor. (3-18-99)

**552. REPORTING SYSTEM.**

Each region of the Department shall maintain a system for receiving and responding to reports or complaints on a twenty four (24) hour per day, seven (7) day per week basis throughout the entire region. The region shall advertise the system to the public throughout the region and ensure the accurate recording of as many facts as possible at the

time of the report. (3-18-99)

**553. ASSIGNING REPORTS FOR RISK ASSESSMENT.**

The Department shall assign all reports of possible abuse, abandonment and neglect of children for risk assessment, unless the field office has knowledge or information that discredits the report beyond a reasonable doubt. (3-30-01)

**554. RESPONSE PRIORITIES.**

The Department must use the following statewide standards for responding to allegations of abuse, neglect, or abandonment, using the determination of risk to the child as the primary criterion. Any variance from these response standards must be documented in the family's case file with a description of action taken, and must be reviewed and signed by the Family and Children's Services Supervisor. (3-30-07)

**01. Priority I.** The Department must respond immediately if a child is in immediate danger involving a life-threatening or emergency situation. Emergency situations include sexual abuse when a child may have contact with the alleged perpetrator and circumstances indicate a need for immediate response. Law enforcement must be notified and requested to respond or to accompany a family services worker. Every attempt should be made to coordinate the Department's assessment with law enforcement's investigation. The child must be seen by a Department family services worker, law enforcement, and medical personnel if applicable, immediately unless written regional protocol agreements direct otherwise. All allegations of physical abuse of a child through the age of six (6) or with profound developmental disabilities should be considered under Priority I unless there is reason to believe that the child is not in immediate danger. (3-30-07)

**02. Priority II.** A child is not in immediate danger but allegations of abuse, including physical or sexual abuse, or serious physical or medical neglect are clearly defined in the referral. Law enforcement must be notified within twenty-four (24) hours. The child must be seen by the family services worker within forty-eight hours (48) of the Department's receipt of the referral. Law enforcement must be notified within twenty-four (24) hours of receipt of all Priority II referrals which involve concerns of abuse or neglect. (3-30-07)

**03. Priority III.** A child may be in a vulnerable situation because of services needs which, if left unmet, may result in harm, or a child is without parental care for safety, health and well being. The child and parent(s) or legal guardian(s) will be interviewed for substantiation of the facts, and to assure that there is no abuse or neglect by parent(s) or legal guardian(s). A family services worker must respond within three (3) calendar days and the child must be seen by the worker within five (5) calendar days of the Department's receipt of the referral. (3-30-07)

**04. Notification of the Person Who Made the Referral.** The Department must notify the person who made the child protection referral of the receipt of the referral within five (5) days. (3-30-07)

**555. SUPERVISORY REVIEW - CERTAIN PRIORITY I AND II CASES.**

In all Priority I and II cases where the alleged victim of neglect, abuse or abandonment is through the age of six (6), review by supervisory or team of all case documentation and other facts shall be conducted within forty-eight (48) hours of initiation of the risk assessment. Such review shall be documented in the file with the signature of the supervisor or team leader, time and date, whether additional risk related issues will be pursued and by whom, and any planning for initiation of services. (3-18-99)

**556. REPORTS INVOLVING INDIAN CHILDREN.**

Possible abuse, abandonment, or neglect of a child who is known or suspected to be Indian shall be reported to appropriate tribal authorities immediately. If the reported incident occurs off a reservation, the department shall perform the investigation. The department shall also investigate incidents reported on a reservation if requested to do so by appropriate authorities of the tribe. A record of any response shall be maintained in the case record and written documentation shall be provided to the appropriate tribal authorities. (3-18-99)

**557. REPORTS INVOLVING MILITARY FAMILIES.**

Reports of possible child abuse, abandonment or neglect involving a military family shall be reported in accordance with the provisions of any agreement with the appropriate military family advocacy representative, in accordance with the provisions of Section 811 of Public Law 99-145. Child abuse, abandonment or neglect of a child on a military reservation falls under federal jurisdiction. (3-18-99)



**558. COMMUNITY RESOURCES.**

The Department will provide information and referral to community resources or may offer preventative services to the family. Information and referral services enable individuals to gain access to human services through providing accurate, current information on community and Department resources. (3-30-07)

**559. CHILD PROTECTION IMMEDIATE SAFETY AND COMPREHENSIVE ASSESSMENTS.**

The Department's immediate safety and comprehensive assessments must be conducted in a standardized format and must utilize statewide assessment and multi-disciplinary team protocols. The assessment must include contact with the child or children involved and the immediate family and a records check for history with respect to child protection issues. (3-30-07)

**01. Interview of a Child.** The interview of a child concerning a child protection report must be conducted: (3-30-07)

**a.** In a manner that protects all children involved from undergoing any unnecessary traumatic experience, including multiple interviews; (3-30-07)

**b.** By a professional with specialized training in using techniques that consider the natural communication modes and developmental stages of children; and (3-18-99)

**c.** In a neutral, non-threatening environment, such as a specially equipped interview room, if available. (3-18-99)

**02. Interview of Family.** Interview of the child's immediate family is mandatory in every case and may require the participation of law enforcement. The family services worker conducting the interview must: (3-30-07)

**a.** Immediately notify the parent(s) or legal guardian(s) being interviewed of the purpose and nature of the assessment. At the initial contact with family, the name and work phone numbers of the family services worker and his supervisor must be given to ensure the family has a contact for questions and concerns that may arise following the visit; (3-30-07)

**b.** Determine if the family is of Indian heritage for the purposes of ICWA; (3-18-99)

**c.** Interview siblings who are identified as being at risk; and (3-18-99)

**d.** Not divulge the name of the person making the report of child abuse or neglect. (3-30-07)

**03. Collateral Interviews.** Any assessment of an abuse or neglect report must include at least one (1) collateral interview with a person who is familiar with the circumstances of the child or children involved. Collateral interviews will be conducted with discretion and preferably with the parent(s)' or legal guardian(s)' permission. (3-30-07)

**04. Completion of a Comprehensive Assessment.** An Immediate Protection/Safety Plan will be completed on each referral assigned for assessment of abuse or neglect, or both. When there are findings of moderate or higher risk and a case remains open, a comprehensive assessment must be completed within thirty (30) days of initial contact with the child of concern. (3-30-07)

**05. Role of Law Enforcement.** Section 16-1625, Idaho Code, specifies that the Department may enlist the cooperation of peace officers for phases of the safety assessment for which they have the expertise and responsibility and consistent with the relevant multidisciplinary team protocol. Such areas include: (3-30-07)

**a.** Interviewing the alleged perpetrator; (3-18-99)

**b.** Removing the alleged perpetrator from the child's home in accordance with Section 39-6301, Idaho Code, the "Domestic Violence Act"; and (3-18-99)

**c.** Taking a child into custody in accordance with Section 16-1612, Idaho Code, where a child is endangered and prompt removal from his or her surroundings is necessary to prevent serious physical or mental injury. (3-18-99)

**06. Notification of the Person Who Made the Referral.** The Department must notify the person who made the child protection referral when the risk assessment has been completed. (3-30-07)

**560. DISPOSITION OF CHILD PROTECTION REPORTS.**

Within five (5) days following completion of risk assessments, the Department will determine whether the reports are substantiated or unsubstantiated. All persons who are the subject of a child protection risk assessment will be notified of the disposition of the assessment. (4-2-08)

**01. Substantiated.** Child abuse, abandonment, or neglect reports are substantiated by one (1) or more of the following: (4-2-08)

**a.** Witnessed by a family services worker, as defined in Section 011 of these rules; (4-2-08)

**b.** A court determines that a child comes within the jurisdiction of the Child Protective Act, Title 16, Chapter 16, Idaho Code; (4-2-08)

**c.** A confession; (4-2-08)

**d.** Corroborated by physical or medical evidence; or (4-2-08)

**e.** Established by evidence that would lead a reasonable person to conclude, that it is more likely than not that abuse, abandonment, or neglect occurred. (4-2-08)

**02. Unsubstantiated.** Child abuse, abandonment, or neglect reports are unsubstantiated when they are not found to be substantiated under Subsection 560.01 of this rule. For intradepartmental statistical purposes, the Department will indicate whether the unsubstantiated disposition of the risk assessment was due to: (4-2-08)

**a.** Insufficient evidence; or (5-3-03)

**b.** An erroneous report. (4-2-08)

**561. CHILD PROTECTION CENTRAL REGISTRY.**

The Adam Walsh Child Protection and Safety Act of 2006, P.L. 109-248, July 27, 2006, 120 Stat. 587, has directed the states to establish a central registry for the purpose of sharing information about persons who have substantiated reports of abuse, abandonment, or neglect against children. The Child Protection Central Registry was established under the authority of Section 16-1629(3), Idaho Code. The primary purpose of the Child Protection Central Registry is to aid the Department in protecting children and vulnerable adults from individuals who have previously abused, neglected, or abandoned children. The Child Protection Central Registry maintained by the Department is separate and apart from the central registry for convicted sexual offenders maintained by the Idaho State Police under Title 18, Chapter 83, Idaho Code. The Child Protection Central Registry provisions in this chapter of rules apply to risk assessments conducted by the Department after October 1, 2007. (4-2-08)

**562. CONFIDENTIALITY OF THE CHILD PROTECTION CENTRAL REGISTRY.**

The names on the Child Protection Central Registry are confidential and may only be released with the written consent of the individual requesting a criminal history and background check, unless otherwise required by federal or state law. No information is released regarding the severity or type of child abuse, abandonment, or neglect. (4-2-08)

**563. SUBSTANTIATED REPORTS ON THE CHILD PROTECTION CENTRAL REGISTRY.**

The name of an individual for whom an incident of abuse, abandonment, or neglect has been substantiated will be entered into the Child Protection Central Registry based on the designated level of risk. The level of risk will be determined by the severity and type of the abuse, abandonment, or neglect and the potential risk of future harm to a child. The highest level of risk is designated as Level One and the lowest level of risk is Level Four. After an individual has been placed on the Child Protection Central Registry, the Department will notify him in writing that he

has been placed on the registry, the risk level assigned and the basis for the Department's decision, the procedures for filing an appeal under IDAPA 16.05.03. "Rules Governing Contested Case Proceedings and Declaratory Rulings," and the procedures for filing a petition for removal from the Child Protection Central Registry in accordance with Section 564 of these rules. (4-2-08)

**01. Child Protection Level One.** An individual with a Level One designation has been determined to pose a high to severe risk to children. Names of individuals for whom an incident of abuse, abandonment, or neglect has been substantiated for any of the following will remain permanently on the Child Protection Central Registry at Level One. (4-2-08)

- a.** Sexual Abuse as defined in Section 16-1602(1)(b), Idaho Code; (4-2-08)
- b.** Sexual Exploitation as defined in Sections 18-1506 and 18-1507, Idaho Code; (4-2-08)
- c.** Physical abuse as described in Section 16-1602(1)(a), Idaho Code, that causes life-threatening, disabling, or disfiguring injury or damage; (4-2-08)
- d.** Neglect as described in Section 16-1602(25), Idaho Code, that results in life-threatening, disabling, or disfiguring injury or damage; (4-2-08)
- e.** Abandonment as described in Section 16-1602(2), Idaho Code, that results in life-threatening, disabling, or disfiguring injury or damage; (4-2-08)
- f.** Death of a child; (4-2-08)
- g.** Torture of a child as described in Section 18-4001, Idaho Code; (4-2-08)
- h.** Aggravated Circumstances as described in Section 16-1619(6)(d), Idaho Code; or (4-2-08)
- i.** Occurrence of two (2) or more separate, substantiated incidents of abuse, abandonment, or neglect, each of which falls under the circumstances listed under Subsection 563.02 of this rule. (4-2-08)

**02. Child Protection Level Two.** An individual with a Level Two designation has been determined to pose a medium to high risk to children and will remain on the Child Protection Central Registry for a minimum of ten (10) years. After the end of the ten-year (10) period, an individual may petition the Department to request his name be removed from the Child Protection Central Registry in accordance with Section 564 of these rules. Names of individuals for whom an incident of abuse, abandonment, or neglect has been substantiated for any of the following will be given the designation of Level Two. (4-2-08)

- a.** Prenatal use of any controlled substance as defined under Section 37-2701(e), Idaho Code, except as prescribed by a medical professional; (4-2-08)
- b.** Administering or knowingly allowing a child to absorb or ingest one (1) or more controlled substances as defined under Section 37-2701(e), Idaho Code, except in the amount prescribed for the child by a medical professional; (4-2-08)
- c.** Child exposed to potentially dangerous: (4-2-08)
  - i.** Drug paraphernalia, as defined in Section 37-2701(n), Idaho Code; (4-2-08)
  - ii.** Manufacture of controlled substances, as defined under Section 37-2701(e), Idaho Code, and Section 37-2701(r), Idaho Code; or (4-2-08)
  - iii.** Chemical components used in the manufacture of controlled substances, as defined under Section 37-2701(e), Idaho Code. (4-2-08)
- d.** Failure to thrive caused by abuse, abandonment, or neglect, as established by medical evidence;

(4-2-08)

**e.** Physical abuse as described in Section 16-1602(1)(a), Idaho Code, abandonment as described in Section 16-1602(2), Idaho Code, or neglect as described in Section 16-1602(25), Idaho Code, that results in neither disabling nor disfiguring injury or damage, but may require medical or other treatment; (4-2-08)

**f.** The restraint or confinement of a child that is potentially dangerous or poses a substantial risk of causing life-threatening, disabling, or disfiguring injury or damage; (4-2-08)

**g.** Medical neglect as described in Section 16-1602(25), Idaho Code, that is potentially dangerous or poses a substantial risk of resulting in life-threatening, disabling, or disfiguring injury or damage; (4-2-08)

**h.** Malnutrition as established by medical evidence; or (4-2-08)

**i.** Occurrence of two (2) or more separate, substantiated incidents of abuse, abandonment, or neglect, each of which falls under the circumstances listed under Subsection 563.03 of this rule. (4-2-08)

**03. Child Protection Level Three.** An individual with a Level Three designation has been determined to pose a mild to medium risk to children and will remain on the Child Protection Central Registry for a minimum of five (5) years. After the end of the five-year (5) period, an individual may petition the Department to request his name be removed from the Child Protection Central Registry in accordance with Section 564 of these rules. Names of individuals for whom an incident of abuse, abandonment, or neglect has been substantiated for any of the following are given the designation of Level Three. (4-2-08)

**a.** Lack of supervision that is potentially dangerous; (4-2-08)

**b.** Failure to protect from abuse, abandonment, or neglect as described in Section 16-1602, Idaho Code, that is potentially dangerous; (4-2-08)

**c.** Failure to discharge parental responsibilities described under Section 16-1602(23), Idaho Code, in situations that are potentially dangerous or pose a substantial risk of harm to the health, safety, welfare, or well-being of a child; or (4-2-08)

**d.** Physical abuse as described in Section 16-1602(1)(a), Idaho Code, or neglect as described in Section 16-1602(25), Idaho Code, that causes minor injuries or damage that does not require medical treatment. (4-2-08)

**04. Child Protection Level Four.** An individual with a Level Four designation has been determined to pose a low risk of future harm to children and will not be placed on the Child Protection Central Registry. Names of individuals who are substantiated for any of the following are given the designation of Level Four. (4-2-08)

**a.** Mild physical neglect due to poverty issues, including no heat or utilities; (4-2-08)

**b.** Minor injury of a child while parent was attempting to protect himself or another; (4-2-08)

**c.** Unsanitary house with timely clean up; or (4-2-08)

**d.** Circumstances in which parent(s) cannot safely provide for their child because the child poses a threat to the safety of the parent(s) or other children in the home and the parent(s) are actively working with the Department or other agency to find a safe and appropriate placement solution for the child. (4-2-08)

**564. PETITIONING FOR REMOVAL FROM THE CHILD PROTECTION CENTRAL REGISTRY.**

**01. Petitioning for Removal From the Child Protection Central Registry.** Any individual whose name appears on the Child Protection Central Registry, other than an individual with a Level One designation, may, after the applicable minimum period of time has passed, petition to have his name removed from the Child Protection Central Registry. The petition must include a written statement from the petitioner to the Department's FACS

Division Administrator requesting that the petitioner's name be removed from the Child Protection Central Registry. The petition will be granted if: (4-2-08)

**a.** There are no additional substantiated reports on the Child Protection Central Registry or that of other states in which the petitioner has resided since the last substantiated report of abuse, abandonment, or neglect in Idaho; and (4-2-08)

**b.** There are no convictions, adjudications, or withheld judgments for the following crimes on the state's central repository of criminal history records as established and maintained by the Idaho State Police under Title 67, Chapter 30, Idaho Code, or on the criminal history repository of other states in which the petitioner has resided since the last substantiated report of abuse, abandonment, or neglect in Idaho. It is the responsibility of the petitioner to request, pay for, and obtain these criminal history checks and submit them to the Department. (4-2-08)

**i.** The Department will not remove a petitioner from the Child Protection Central Registry if a criminal history check reveals any of the following, within five (5) years of the receipt of the petition: (4-2-08)

- (1) Physical Assault; (4-2-08)
- (2) Battery; or (4-2-08)
- (3) A drug-related offense. (4-2-08)

**ii.** The Department will not remove a petitioner from the Child Protection Central Registry if a criminal history check reveals any of the following: (4-2-08)

- (1) Child abuse or neglect; (4-2-08)
- (2) Spousal abuse; (4-2-08)
- (3) A crime against children, including child pornography; or (4-2-08)
- (4) A crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery. (4-2-08)

**02. Granting or Denying the Petition for Removal.** The Department will issue a letter granting or denying removal of the petitioner's name from the Child Protection Central Registry within twenty-eight (28) days of receipt of the petition. (4-2-08)

**03. Appeal of a Denial for Petition for Removal.** The individual may file an appeal from the denial of removal of his name from the Child Protection Central Registry under IDAPA 16.05.03, "Rules Governing Contested Cases Proceedings and Declaratory Rulings." (4-2-08)

**04. Petition for Removal of Individuals on the Child Protection Central Registry Prior to October 1, 2007.** After January 1, 2008, an individual whose name was placed on the Child Protection Central Registry prior to October 1, 2007, may file a petition to have his name removed from the registry in accordance with Subsection 564.01 of this rule. The petitioner will be assigned a child protection risk level in accordance with criteria under Section 563 of these rules and the case will be reviewed to see if it meets the requirements for removal. (4-2-08)

**565. "SAFE HAVEN" EXEMPTION FOR PARENTS OF CERTAIN ABANDONED INFANTS.** No disposition will be made on the parent(s) and no information will be entered into the Child Protection Central Registry when a parent(s) relinquishes their infant within the first thirty (30) days of life to a "Safe Haven" according to Title 39, Chapter 82, Idaho Code, Idaho Safe Haven Act. (4-2-08)

**566. COURT-ORDERED CHILD PROTECTION RISK ASSESSMENT.** When, in any divorce proceeding or upon request for modification of a divorce decree, an allegation of child abuse or child sexual abuse is made, implicating either party, the court may order that an investigation/risk assessment be

conducted by the Department. Court orders for preliminary child protective risk assessment and for any subsequent assessment the court may deem necessary will be served on the Department supervisor for child protection services in the field office in which the court has geographical jurisdiction. The child protection supervisor must immediately initiate the risk assessment and consult with the court promptly if there are any obstacles proceeding its completion. Immediately upon completing the report, the Department must make a written report to the court. (4-2-08)

**567. PETITION UNDER THE CHILD PROTECTIVE ACT.**

If any incidence of child abuse, abandonment, or neglect is substantiated through an immediate safety or comprehensive assessment, or both, or during the provision of services, and cannot be resolved through informal processes or voluntary agreement that is adequate for protection of the child, the Department will request the prosecuting attorney to file a Child Protective Act petition. (4-2-08)

**568. COOPERATION WITH LAW ENFORCEMENT.**

The Department will cooperate with law enforcement personnel in their handling of criminal investigations and the filing of criminal proceedings. (4-2-08)

**569. CHILD CUSTODY INVESTIGATIONS FOR THE DISTRICT COURT.**

Where no other community resources are available and when ordered by the district courts, the Department will, for a fee of thirty-five dollars (\$35) per hour, conduct immediate safety and comprehensive assessments and provide social information to assist the court in child custody actions, to assist the court to determine the most therapeutic placement for the child. (3-30-07)

**01. Requests From Private Attorney.** If a parent's attorney requests an immediate safety or comprehensive assessment, or both, and a report of findings regarding the fitness of a parent, the attorney must be advised that such service is provided on behalf of a child but not on behalf of a litigant, and that any such assessment and report would be provided to the court pursuant to a court order. (3-30-07)

**02. Conduct of the Assessment.** In conducting the assessment, the family services worker must explain to the family the purpose for which the information is being obtained. If the judge intends to treat the report as evidence, the family must be informed that any information they provide will be brought out at the court hearing. If the family refuses to give information to the family services worker, the Department has no authority to require cooperation. However, the judge may issue an order directing the family to provide information to the family services worker for the purpose of making a report to the court. (3-30-07)

**03. Report to Court.** The family services worker will provide a report only to the Magistrate judge who ordered the assessment, and must use the Department's format for the assessment of need. The report must describe what was observed about the home conditions and the care of the child(ren). (3-30-07)

**04. Department Clients.** If the family is or has been a client of the Department, disclosure of information must comply with Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Use and Protection of Department Records." (3-30-07)

**570. -- 639. (RESERVED).**

**CHILDREN'S MENTAL HEALTH SERVICES**  
**(Sections 640 -- 699)**

**640. CHILD MENTAL HEALTH SERVICES.**

Section 16-2402, Idaho Code, designates the Department as the lead agency in establishing and coordinating community supports, services, and treatment for children with serious emotional disturbances and their families. Core services provided are identified in Section 030. (3-30-01)

**641. OUTCOMES.**

**01. Outcomes.** Outcomes are measured through administration of a standardized assessment tool both

before and after intervention. Major life areas such as school, community, mental status, family life are the focus of the assessment. (3-30-01)

**02. Progress.** Progress on each of the following behavioral indicators would be suggestive of a positive outcome: (3-30-01)

- a.** Child lives at home; (3-30-01)
- b.** Child has positive peers; (3-30-01)
- c.** Child attends and participates regularly in school; (3-30-01)
- d.** Child manages psychiatric symptoms and is not a danger to self or others; and (3-30-01)
- e.** Child does not exhibit criminal behavior. (3-30-01)

**642. ACCESS TO SERVICES.**

The Department will prioritize services to seriously emotionally disturbed children and their families. Services may be accessed through a voluntary application for services or through involuntary legal proceedings. When regional service capacity is reached, every reasonable effort will be made to obtain alternative services for the child and family. Their names will also be placed on a waiting list for Department services. (3-30-01)

**01. Local Resources and Plan Development.** Children with serious emotional disturbances and their families may have access to local resources and services which do not require placement outside their home into alternate care. A plan will be developed between the Department, the parent(s) or legal guardian(s), the child, if appropriate, and the service provider. This plan will be specific, measurable and realistic in the identification of the goal(s), relevant areas of concern, and desired results. (3-30-07)

**02. Payment for Treatment.** When parent(s) or legal guardian(s) request Department payment for a child's treatment, a service agreement must be negotiated and signed by the parent(s) or legal guardian(s) and the Department. A referral will be made to Child Support Services to collect payment for the cost of out-of-home care. (5-3-03)

**03. Involuntary Placement Under the Children's Mental Health Services Act.** When a seriously emotionally disturbed child presents a significant danger to himself or herself and/or to others and the child's parent(s) or legal guardian(s) will not consent to a voluntary placement of the child, the child can be placed involuntarily through a court order. Involuntary Treatment Orders are limited to one hundred twenty (120) days and can be changed to a voluntary placement upon the request of the consenting parent(s) or legal guardian(s). At the end of one hundred twenty (120) days, a judicial redetermination is required to extend the involuntary treatment order for an additional set period of time. (5-3-03)

**04. Use of Public Funds and Benefits.** Public funds and benefits will be used to provide services for children with serious emotional disturbances and their families. Services should be planned and implemented to maximize the support of the family's ability to provide adequate safety and well-being for the child at home. If the child cannot receive adequate services within the family home, community resources will be provided to minimize the need for institutional or other residential placement. Services will be individually planned with the family to meet the unique needs of each child and family. Services will be provided without requiring that parent(s) or legal guardian(s) relinquish custody of the child. (3-30-07)

**643. CHARGES TO PARENT(S) OR LEGAL GUARDIAN(S).**

Parent(s) or legal guardian(s) of children with serious emotional disturbances who are receiving services either directly from the Department's Family and Children's Services program or through Department contracts with private providers, are responsible for paying for services provided to their child and to their family. The amount charged for each service shall be in accordance with the parent(s)' or legal guardian(s)' ability to pay as determined by a sliding fee scale. The amount charged for services when a child is living outside of his or her home, such as foster care, residential care or hospital shall be in accordance with the parent(s)' or legal guardian(s)' ability to pay as determined by a sliding scale (cost of care as compared with parent(s)' or legal guardian(s)' available income and consideration

of indebtedness) applied by the Division of Welfare's Bureau of Child Support Services. (5-3-03)

**644. SLIDING SCALE FEE TABLE 644.**

Sliding scale fee for services provided to a child in their home will be calculated using the following table. This sliding fee scale is based on the current Poverty Guidelines published in the Federal Register. Incomes below the five percent (5%) level are not to be charged.

ANNUAL HOUSEHOLD INCOME									
Family Size								each add'l person	% pay child at home
1	2	3	4	5	6	7	8		
<\$8,050	<\$10,850	<\$13,650	<\$16,450	<\$19,250	<\$22,050	<\$24,850	<\$27,650		0 %
\$8,050	\$10,850	\$13,650	\$16,450	\$19,250	\$22,050	\$24,850	\$27,650	+\$2,800	0 %
\$10,062	\$13,562	\$17,062	\$20,562	\$24,062	\$27,562	\$31,062	\$34,562	+\$3,500	5 %
\$12,075	\$16,275	\$20,475	\$24,675	\$28,875	\$33,075	\$37,275	\$41,475	+\$4,200	10 %
\$14,087	\$18,987	\$23,887	\$28,787	\$33,687	\$38,587	\$43,487	\$48,387	+\$4,900	15 %
\$16,100	\$21,700	\$27,300	\$32,900	\$38,500	\$44,100	\$49,700	\$55,300	+\$5,600	20 %
\$18,112	\$24,412	\$30,712	\$37,012	\$43,312	\$49,612	\$55,912	\$62,212	+\$6,300	30 %
\$20,125	\$27,125	\$34,125	\$41,125	\$46,625	\$55,125	\$62,125	\$69,125	+\$7,000	40 %
\$22,137	\$30,712	\$37,537	\$45,237	\$51,437	\$60,637	\$68,337	\$76,037	+\$7,700	50 %
\$24,150	\$32,550	\$40,950	\$49,350	\$57,750	\$66,150	\$74,550	\$82,950	+\$8,400	60 %
\$26,162	\$35,262	\$44,362	\$53,462	\$62,562	\$71,662	\$80,762	\$89,862	+\$9,100	70 %
\$28,175	\$37,975	\$47,775	\$57,575	\$67,375	\$77,175	\$86,975	\$96,775	+\$9,800	80 %
\$30,187	\$40,687	\$51,187	\$61,687	\$72,187	\$82,687	\$93,187	\$103,687	+\$10,500	90 %
\$32,200	\$43,400	\$54,600	\$65,800	\$77,000	\$88,200	\$99,400	\$110,600	+\$11,200	100 %

(3-30-01)

**645. FEE DETERMINATION FOR SERVICES OTHER THAN OUT-OF-HOME CARE.**

Parent(s) or legal guardian(s) must complete an application for service and a "Fee Determination Form" prior to the delivery of services. The fee determination process includes the following features: (5-3-03)

**01. Ability to Pay.** Charges are based upon the number of dependents and family income. (3-18-99)

**a.** An ability to pay determination will be made at the time of the voluntary request for services or as soon as possible. (3-18-99)

**b.** Redetermination of ability to pay will be made at least annually or upon request of the parent(s) or legal guardian(s) or at any time changes occur in family size, income or allowable deductions. (5-3-03)

**c.** In determining the family's ability to pay for services, the Department shall deduct annualized amounts for: (3-18-99)

i. Court-ordered obligations; (3-18-99)

ii. Dependent support; (3-18-99)



- iii. Child care payments necessary for parental or legal guardian(s) employment; (5-3-03)
  - iv. Medical expenses; (3-18-99)
  - v. Transportation; (3-18-99)
  - vi. Extraordinary rehabilitative expenses; and (3-18-99)
  - vii. State and federal tax payments, including FICA taxes. (3-18-99)
- d.** Information regarding third-party payors and other resources including Medicaid or private insurance must be identified and developed in order to fully determine the parent(s)' or legal guardian(s)' ability to pay and to maximize reimbursement for the cost of services provided. (5-3-03)

**e.** It is the responsibility of the parent(s) or legal guardian(s) to obtain and provide information not available at the time of the initial financial interview whenever that information becomes available. (5-3-03)

**02. Time of Payment.** Normally charges for services will be due upon delivery of the service unless other arrangements are made, such as for monthly billing. (3-18-99)

**03. Charges.** Using the sliding fee scale in Section 644, an amount will be charged based on family size, resources, income, assets and allowable deductions, exclusive of third-party liable sources, but in no case will the amount charged exceed the cost of the services. (3-30-01)

**04. Established Fee.** The maximum hourly fees or flat fees charged for children's mental health services shall be established by the Department of Health and Welfare. The current charges are set out in Table 645.

<b>Table 645 - Hourly Charges for Children's Mental Health Services</b>	
<b>Hourly Charge</b>	
<b>a. Psychosocial Rehabilitation Services</b>	
i. Individual Psychosocial Rehabilitation	\$74
ii. Group Psychosocial Rehabilitation	\$18
iii. Rehabilitative Evaluation	\$74
iv. Task Plan Development	\$74
v. Community Crisis Support	\$74
vi. Psychopharmacological Management	\$32
vii. Psychological Test	\$63
viii. Medical Report (new)	\$63
ix. Medical Report (past record)	\$63
x. Consultation/Collateral	\$63
xi. Crisis Intervention (at Emergency Room)	\$74
xii. Diagnostic Interview/Screening	\$63
<b>b. Psychotherapy</b>	
i. Individual	\$63 \$83*
ii. Group Psychotherapy	\$24

Table 645 - Hourly Charges for Children's Mental Health Services		
iii.	Family Psychotherapy	\$63 \$77*
		*M.D. rate

(3-30-01)

646. -- 699. (RESERVED).

**ADOPTION SERVICES**  
(Sections 700 -- 710)

**700. ADOPTION SERVICES POLICY.**

Where reasonable efforts to reunite or preserve a family are unsuccessful, or where relinquishment is requested by the parent(s), the Department shall consider whether termination of parental rights is in the best interests of the child. The Department shall make every effort to place any child legally free for adoption in an appropriate adoptive home. Each child will be placed with an adoptive family who can support the racial, ethnic or cultural identity of the child, and is able to cope with any forms of discrimination the child may experience. (5-3-03)

**701. SERVICES TO BE PROVIDED IN ADOPTIONS.**

In addition to the core family and children's services provided in accordance with these rules, the Department must assure provision of the following: (3-30-07)

**01. Response to Inquiries.** Written or personal inquiries from prospective adoptive families must be answered within two (2) weeks. (3-30-07)

**02. Pre-Placement Child/Family Assessment.** An assessment of the child's family of origin history, needs as an individual and as part of a family, and completion of a life story book for each child preparing for adoptive placement. (3-18-99)

**03. Compliance with Multi-Ethnic Placement Act and Interethnic Adoption Provisions.** Selection of the most appropriate adoptive family consistent with the Multi-Ethnic Placement Act and Interethnic Adoption Provisions, if the child is not an Indian. (3-30-01)

**04. (Pre-Placement) Home Study.** An adoptive home study to ensure selection of an appropriate adoptive home. (3-18-99)

**05. Preparation for Placement.** Preparation of the child by an assigned social worker who will assist the child in addressing anticipated grief and loss due to separation from his parents and assisting the child with the transition into an adoptive home. (5-3-03)

**06. Technical Assistance.** Assistance in completing the legal adoption, including compliance with the Indian Child Welfare Act. (3-18-99)

**07. Adoption Assistance.** A determination of eligibility for adoption assistance must be made for each child placed for adoption through the Department prior to the finalization of his adoption. Eligibility for adoption assistance is determined solely on the child's need. No means test may be applied to the adoptive family's income or resources. Once eligibility is established, the Division will negotiate a written agreement with the adoptive family. The agreement must be fully executed by all parties prior to the finalization of the adoption in order to be valid. (3-30-07)

**08. Period of Support Supervision.** Once a child is placed with an adoptive family, a period of support and supervision by the Department lasting at least six (6) months must be completed prior to the finalization of the adoption. If the child has been a foster child placed with the family for a period of at least six (6) months, the

family may submit a written request to the Department's Family and Children's Services Program Manager to reduce the supervisory period to a minimum of three (3) months. (3-30-07)

**09. Post Adoption Services.** Services after an adoption is final are provided within available resources. Children with negotiated adoption assistance agreements, whether from Idaho or from another state, are eligible for any services available to Idaho children. International adoptees residing in Idaho are also eligible for any services available to Idaho children under the Inter-Country Adoption of 2000 (P.L.106-279). Children with either IV-E or state adoption assistance agreements are eligible for Medicaid in Idaho. A referral from an Interstate Compact on Adoption and Medical Assistance member state will serve as a formal application for services in Idaho. Applications for Medicaid are made through the Department in accordance with IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children." (3-30-07)

**702. SERVICES TO BE PROVIDED IN LEGAL GUARDIANSHIPS.**

In addition to the family services provided in accordance with these rules, the Department will provide the following: (3-30-07)

**01. Preparation for Placement.** Preparation of the child by an assigned social worker who will assist the child in addressing anticipated grief and loss due to separation from his parent(s) and assisting the child with the transition into the home of the legal guardian(s). (5-3-03)

**02. Licensure.** Potential legal guardian(s) must apply for and receive a foster care license before any child in the guardianship of the Department can be placed in their home. (5-3-03)

**03. Financial Assistance to Obtain Guardianship.** For potential legal guardian(s) who are not able to afford the attorney and court costs to obtain legal guardianship of a child in the Department's guardianship, financial assistance may be available from the Department. Financial assistance may be provided regardless of the guardian's state of residence. (5-3-03)

**04. Eligibility for Guardianship Assistance.** A determination of eligibility for guardianship assistance must be made for each child placed in a legal guardianship through the Department prior to the finalization of the guardianship. Eligibility for guardianship assistance is based on the child's identified needs, and requires completion of the legal termination of parental rights and documentation of unsuccessful efforts to place the child for adoption. No means test may be applied to the prospective legal guardian family's income or resources in a determination of eligibility. (3-30-07)

**05. Guardianship Assistance Agreement.** The region will negotiate a written guardianship assistance agreement with the prospective legal guardian(s). The agreement must be fully executed by all parties prior to the finalization of the guardianship in order to be valid. Benefits may include both a monthly cash payment and Medicaid benefits. The cash payment may not exceed the published foster care rate the child would receive if he or she were living in family foster care in Idaho. Idaho Medicaid benefits can only be used in Idaho. There is no reciprocity with other state's Medicaid programs. Guardianship benefits are subject to availability and are to be reviewed by the Department and the legal guardian(s) at least annually. This benefit terminates on the child's eighteenth birthday regardless of the child's academic standing, physical, or developmental delays. (3-30-07)

**06. Revocation of Legal Guardianship.** Any party including the Department or the child, if age fourteen (14) or older, may petition the court to have the legal guardian(s) removed. Guardianship assistance is terminated when a court revokes the guardianship. (5-3-03)

**07. Termination of Guardianship Assistance When Child Leaves Home of the Legal Guardian(s).** If guardianship is revoked and the child(ren) are returned to the Department's guardianship, guardianship assistance will be terminated. If it is anticipated that another legal guardian(s) will be appointed by the court, the new guardian(s) will need to complete application for guardianship assistance before the guardianship is finalized. The guardian(s) is required to immediately report to the Department any reason which would make them ineligible to receive guardianship assistance, such as, the child leaves the home, the child marries or enters the military. (5-3-03)

**08. Retroactive Benefits.** Legal guardians appointed on or before July 1, 2001, are not eligible for guardianship assistance. There will be no retroactive benefits paid by the Department for a child whose legal

guardian(s) was appointed before July 1, 2001 or for guardians who did not negotiate a guardianship assistance agreement prior to the finalization of the guardianship. (5-3-03)

**703. -- 709. (RESERVED).**

**710. FAMILY HISTORY.**

If the family case plan is termination of parental rights and adoption is considered a part of the total planning for the child, the following information shall be obtained and placed in the child's permanent adoption record: (3-30-01)

- 01. Informational Forms.** Informational background forms regarding the birth mother, birth father, and the child. (3-18-99)
- 02. Hospital Records.** Hospital birth records on child. (3-18-99)
- 03. Evaluations/Assessments.** Evaluations/Assessments previously completed on child. (3-18-99)
- 04. Current Picture.** Current picture of child. (3-18-99)
- 05. Narrative Social History.** Family and Child's Narrative Social History that addresses: (3-18-99)
  - a.** Family dynamics and history; (3-18-99)
  - b.** Child's current functioning and behaviors; (3-18-99)
  - c.** Interests, talents, abilities, strengths; (3-18-99)
  - d.** Child's cultural and racial identity needs. The ability to meet the cultural and racial needs of the child does not necessitate a family have the same culture or race as the child; (3-18-99)
  - e.** Life story, moves, reasons, key people; (3-18-99)
  - f.** Child's attachments to current caretakers, siblings and significant others; i.e., special friends, teachers, etc.; (3-18-99)
  - g.** Medical, developmental and educational needs; (3-18-99)
  - h.** Child's history, past experiences, and previous trauma; (3-18-99)
  - i.** Indian child's membership or eligibility for membership in tribe(s); (3-18-99)
  - j.** Membership or eligibility for membership in, and social and cultural contacts with, tribe(s) of parent(s), if any, including names and addresses of extended family and membership in tribe(s); (3-18-99)
  - k.** Indian child's contacts with tribe(s); (3-18-99)
  - l.** Individualized recommendations regarding each child's need for permanency; and (3-18-99)
  - m.** Reasons for requesting termination of parental rights. (3-18-99)

**TERMINATION OF PARENT-CHILD RELATIONSHIP**  
**(Sections 711 -- 749)**

**711. DECISION AND APPROVAL PROCESS FOR TERMINATION OF PARENT AND CHILD RELATIONSHIP (TPR).**

**01. Recommendation for Termination.** Any recommendation to the Family and Children's Services Program Manager regarding the termination of parental rights shall be based on the outcome of a team decision making process. (3-30-01)

**02. Approval to File a Petition.** When the Program Manager has approved, in writing, the request to file a petition for Termination of Parent and Child Relationship, the child's worker shall send the following information to the State Adoption Program Specialist: (3-30-01)

- a. Child's name; (3-30-01)
- b. Child's date of birth; (3-30-01)
- c. Racial background; (3-30-01)
- d. Sibling names and dates of birth; and (3-30-01)
- e. The permanent plan for the child. (3-30-01)

**712. -- 713. (RESERVED).**

**714. VOLUNTARY TERMINATION.**

The Department becomes involved in voluntary terminations when a parent(s) requests the Department to place their special needs child or children for adoption and when voluntary termination is a goal in the family case plan. Parent(s) requesting placement of a potentially healthy unborn or healthy newborn child should be referred to the licensed private adoption agencies in Idaho. (3-20-04)

**715. VOLUNTARY CONSENT.**

In obtaining a parent's consent to terminate their parental rights through the Department, a Consent to Terminate Parental Rights and Waiver of Rights to Hearing shall be signed before the Magistrate Judge. Once a parent's consent has been given before the court, a corresponding petition under the Termination of Parent and Child Relationship Act shall be filed by legal counsel representing the Department. (3-20-04)

**716. VOLUNTARY TERMINATION OF PARENTAL RIGHTS TO AN INDIAN CHILD.**

Consent to voluntary termination of parental rights by the parent(s) or Indian custodian(s) of an Indian child shall not be valid unless executed in writing and recorded before a court of competent jurisdiction, which may be a tribal court. The written consent must be accompanied by the presiding judge's certificate that: (5-3-03)

**01. Explanation of Consent.** The terms and consequences of the consent were fully explained in detail and were fully understood by the parent(s) or Indian custodian(s); and (5-3-03)

**02. Interpretation If Necessary.** The parent(s) or Indian custodian(s) fully understood the explanation in English or it was interpreted into a language the parent(s) or Indian custodian(s) understood. (5-3-03)

**717. FILING OF PETITION FOR VOLUNTARY TERMINATION.**

The petition for a voluntary termination of parental rights may be filed by an authorized agency, by the guardian(s) of the person or the legal custodian of the child or the person standing in loco parentis to the child, or by any other person having a legitimate interest in the matter. (5-3-03)

**718. REPORT TO COURT -- VOLUNTARY TERMINATION.**

If a voluntary consent to termination has been signed by the parent(s) before the Magistrate Court, an investigation or Report to the Court under the Termination Act is at the court's discretion. If the petition has been filed by the Department of Health and Welfare, Division of Family and Community Services, a report is required to accompany the petition, pursuant to Section 16-2008(b), Idaho Code. (5-3-03)

**719. INVESTIGATION.**

An investigation of the allegations in the petition and a report recommending disposition of the petition under the Termination of Parent and Child Relationship Act shall be completed and submitted to the court within thirty (30)

days, unless an extension of time is granted by the court. The purpose of this investigation is to verify the allegations through all available sources, including the petitioner, parent(s) and possibly the extended family of the child. The Report to the Court under the Termination of Parent and Child Relationship Act, is to serve as an aid to the court in determining a disposition that complies with the Indian Child Welfare Act where applicable, or that will be in the best interest of the child. If a petition is filed by a party other than the Department, the court may order such an investigation by the Department. The law also allows completion of an investigation by an authorized agency or a certified adoption professional, prior to adjudication and disposition. If the Department is the petitioner, the report shall accompany the petition. Reports submitted under the Termination of Parent and Child Relationship Act based on a parent's voluntary consent shall include: (3-20-04)

- 01. Description of Investigation.** The circumstances of the petition and the facts determined from the investigation; and (3-18-99)
- 02. Child-Related Factors.** Child related factors, including: (3-18-99)
  - a.** Child's current functioning and behaviors; (3-18-99)
  - b.** Medical, educational and developmental needs of the child; (3-18-99)
  - c.** Child's history and past experiences; (3-18-99)
  - d.** Child's identity needs; (3-18-99)
  - e.** Child's interests and talents; (3-18-99)
  - f.** Child's attachments to current caretakers and any absent parent; (3-18-99)
  - g.** Child's current living situation; (3-18-99)
  - h.** Indian child's membership or eligibility for membership in tribe(s); (3-18-99)
  - i.** Indian child's contacts with tribe(s); (3-18-99)
  - j.** The present circumstances, history, condition and desire of the parent whose rights are being terminated regarding plans for the child; (3-18-99)
  - k.** Such other facts as may be pertinent to the parent and child relationship and this particular case; i.e., compliance with Interstate Compact Placement on Children; and (3-18-99)
  - l.** A recommendation and reasons as to whether or not the termination of the parent and child relationship should be granted. (3-18-99)

**720. FILING OF A PETITION FOR INVOLUNTARY TERMINATION OF PARENT AND CHILD RELATIONSHIP.**

Unless there are compelling reasons it would not be in the interest of the child, the Department shall be required to file a Petition to Terminate the Parent and Child Relationship within sixty (60) days of a judicial determination that one (1) or more of the following has occurred: (3-30-01)

- 01. Abandonment.** An infant has been abandoned; (3-30-01)
- 02. Reasonable Efforts to Reunify the Family Are Not Required.** That reasonable efforts, as defined in Section 16-1610(b)(2)(iv), Idaho Code, are not required because the court determines the parent(s) has subjected a child or children to aggravated circumstances. (5-3-03)

**721. REPORT TO THE COURT -- INVOLUNTARY TERMINATION.**

If a petition for an involuntary termination of parental rights has been brought before the Magistrate Court, an investigation or report to the court under the Termination Act is required. If the petition has been filed by the

Department a report is required pursuant to Section 16-2008(b), Idaho Code. Reports submitted under the Termination Act based on an involuntary termination of parental rights shall include: (3-30-01)

- 01. Allegations.** The allegations contained in the petition. (3-30-01)
- 02. Investigation.** The process of the assessment and investigation. (3-30-01)
- 03. Family Circumstances.** The present condition of the child and parent(s), especially the circumstances of the parent(s) whose rights are being terminated and contact with the parent(s) of a minor parent, unless lack of contact is explained. (5-3-03)
- 04. Medical Information.** The information forms regarding the child, birth mother, and birth father shall be submitted with the Report to the Court. Reasonably known or available medical and genetic information regarding both birth parents and source of such information, as well as reasonably known or available providers of medical care and services to the birth parents. (3-30-01)
- 05. Efforts to Maintain Family.** Other facts that pertain to the parent and child relationship including what reasonable efforts have been made to keep the child with the family. (3-30-01)
- 06. Absent Parent.** Reasonable efforts made by the petitioner to locate an absent parent(s) and provision of notification to an unmarried father of the paternity registry requirement pursuant to Section 16-1513, Idaho Code. (3-20-04)
- 07. Planning.** Proposed plans for the child consistent with: (3-30-01)
  - a.** The Indian Child Welfare Act, including potential for placement with the Indian child's extended family, other members of the Indian child's tribe, or other Indian families; and (3-30-01)
  - b.** The Multi-Ethnic Placement Act and Interethnic Placement Act and regulations prohibiting states from delaying or denying cross-jurisdictional adoptive placements with an approved family which shall include individualized documentation regarding this child's needs in permanent placement. (3-30-01)
- 08. Compliance with the Indian Child Welfare Act.** Documentation of compliance with the Indian Child Welfare Act, including identification of whether the child is Indian and if so: (3-30-01)
  - a.** Notification of the pending proceedings by registered mail with return receipt requested, to the parent(s) or Indian custodian(s) and the Indian child's tribe, or to the Secretary of the Interior if their identity or location cannot be determined; (5-3-03)
  - b.** Notification of the right of the parent(s) or Indian custodian(s), and the Indian child's tribe, to intervene in the proceeding and their right to be granted up to twenty (20) additional days to prepare for the proceeding; (5-3-03)
  - c.** Notification that if the court determines indigency, the parent(s) or Indian custodian(s) shall have the right to court-appointed counsel; (5-3-03)
  - d.** Evidence, including identity and qualifications of expert witnesses, that continued custody of the child by the parent(s) or Indian custodian(s) is likely to result in serious emotional or physical damage to the child; (5-3-03)
  - e.** A recommendation and the reasons therefor as to whether or not termination of the parent and child relationship is in the best interest of the child; and (3-30-01)
  - f.** Upon the court's written decision to terminate parental rights, two certified copies of the "Findings of Fact, Conclusions of Law and Decree" are to be placed in the child's permanent record. (3-30-01)

**722. -- 749. (RESERVED).**

**BECOMING AN ADOPTIVE PARENT**  
**(Sections 750 -- 850)**

**750. APPLICATION TO BE ADOPTIVE PARENT(S).**

Each field office shall be 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. (5-3-03)

**01. Interviews with Potential Applicant(s).** Initial interviews with groups of applicants or with individual families shall be scheduled promptly and shall be used to explain Department policies and procedures regarding adoptive placement, the kinds of children available, and the nature of the home study. (5-3-03)

**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: (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)

**751. -- 759. (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 shall 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. (3-20-04)

**762. APPLICATION AND DATA COLLECTION.**

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 shall be given to the prospective adoptive parent(s). (3-20-04)

**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 shall 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. (3-20-04)

**03. Submission of Completed Home Study.** Once the adoptive home study has been initiated, the completion of the home study shall occur within three (3) months. The original and one (1) copy of the completed home study and all supporting documentation must be submitted to the State Adoption Program Specialist immediately upon approval of the supervisor. (3-18-99)

**763. APPLICANT RESPONSIBILITIES.**

It shall be the responsibility of the adoptive applicant to keep the field office informed of any changes of circumstances, or of any subsequent decision against adoption. An applicant is to maintain contact with the Department on an annual basis. In the absence of contact from the adoptive applicant, the Department shall initiate contact on an annual basis to confirm the accuracy of information in the files and the status of the application. The contact shall be verified by a written annual update to the adoption home study. (3-20-04)

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

Upon application by a potential adoptive family, the family services worker shall conduct the pre-placement adoptive home study and issue the verification of positive recommendation where appropriate. The home study shall be completed prior to placement of any child for adoption in that home. (3-18-99)

**765. -- 769. (RESERVED).**

**770. ADOPTIVE HOME STUDIES.**

Pre-placement home studies for Department adoptions, independent, relative and step-parent adoptions must document the following: (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. Photograph.** A photograph of the adopting family. (3-18-99)

**771. -- 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 shall be followed: (3-18-99)

- 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).**

**790. FOSTER PARENT ADOPTIONS.**

The procedure and requirements are the same for all adoptive applicants. This includes foster parents who want to be considered as adoptive parents for a child who has a plan of adoption. These requirements include compliance with the Indian Child Welfare Act, the Multi-Ethnic Placement Act of 1994 and the Interethnic Adoption Provisions of 1996. (3-30-01)

**791. -- 799. (RESERVED).**

**800. PLACEMENT OF THE CHILD.**

The field office shall 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 shall 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 shall be provided to the adoptive family and one (1) copy will be kept in the child's permanent record. The child's record shall 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. (3-20-04)

**801. -- 829. (RESERVED).**

**830. ADOPTION APPLICATION FEE.**

The adoption application fee covers the costs of processing the adoption application and does not guarantee that the applicant family will receive a child for adoption. The application fee is non-refundable. Money collected through the Department's adoption program may be utilized to pay state adoption assistance payments for children with special needs and pay the service fees, recruitment costs, and placement fees for private agencies serving children who have special needs. (3-30-07)

**831. HOME STUDY, SUPERVISORY REPORTS, AND REPORTS OF THE COURT FEES.**

A family who cares for a child or children with special needs through the Department foster care program, who is not able to pay the costs associated with the pre-placement home study, supervisory reports, or the report to the court, may apply to the regional Family and Children's Services Program Manager for a waiver of some or all of the fees. If a family who receives a waiver of the pre-placement home study fee uses that home study to pursue adoption of a child not in the Department's custody, the Department will rescind the waiver and the family will be expected to pay the Department for the full cost of the study. (3-30-07)

**832. FEE SCHEDULE - ADOPTIONS THROUGH DEPARTMENT.**

<b>TABLE 832</b>	
<b>Service</b>	<b>Fee</b>
General Information/Adoption Inquiries	No Charge
Health and Welfare Application:	
Couple	\$50
Single Parent	\$25
Second Placement or Reapplication	\$25
Pre-placement Home Study - Payment due at time of study or per agreement	\$450
Report to Court under the Adoption Act	\$150
Second Placement	\$150
Placement Supervision Fee - Charged at the time of placement	\$300
Closed Adoption Home Study/Court Report Retrieval Fee	\$50
Report to the Court Under the Termination Act	\$40 per hour

(3-30-07)

**833. PLACEMENT SUPERVISION -- TRANSFER FROM OUT OF STATE PRIVATE AGENCY.**

When a prospective adoptive parent(s) moves to Idaho, with a child who has been placed with them by a private agency in their former state of residency, the sending state agency shall arrange through the Interstate Compact on the Placement of Children, services through one of Idaho's private, licensed adoption agencies, or a certified adoption professional. (3-20-04)

**834. -- 849. (RESERVED).**

**850. INDEPENDENT, RELATIVE AND STEPPARENT ADOPTIONS.**

Independent adoptive placements shall be handled in accordance with Section 16-1506, Idaho Code. Person(s) petitioning to adopt a child should have initially completed a pre-placement home study that includes a positive recommendation for adoption. Proceedings to adopt a child shall be commenced by the filing of a petition by the person(s) proposing to adopt the child. Within five (5) days of receiving a petition to adopt a minor child by a person(s) unrelated to the child or not married to a parent of the child, the court shall serve a copy of the petition on the Director. The court may also request the Department to conduct an investigation in the case of a relative or step parent adoption. The pre-placement investigation home study and the adoption investigation report to the court shall be completed by qualified staff of the Department, staff of a qualified child-placing children's adoption agency, or a certified adoption professional. (3-20-04)

**01. Prospective Adoptive Parent Is the Spouse of a Child's Parent.** When a prospective adoptive parent is married to the parent of the child being adopted, the report to the court under the Adoption of Children Act shall be completed for the prospective adoptive parent only upon order of the court. (3-20-04)

**02. Exigent Circumstances.** In exigent circumstances where the prospective adoptive parent(s) are determined by the court to have been unable to complete the pre-placement study with a positive recommendation prior to the time the child is placed in the home, the child shall remain in the home unless the court determines that another placement is appropriate. When exigent circumstances exist, the pre-placement home study, combined with the adoption report under the Adoption of Children Act, shall be initiated within five (5) days of placement, and shall be completed within sixty (60) days. (3-30-01)

**851. -- 859. (RESERVED).**

**THE ADOPTIVE PLACEMENT**  
(Sections 860 -- 888)

**860. PROCEDURES FOLLOWING THE ADOPTIVE PLACEMENT.**

Following the adoptive placement, a period of support and supervision by the Department lasting at least six (6) months must be completed prior to the finalization of the adoption. In situations where a foster family has a significant relationship with a child and the child has been placed in their home for at least the last six (6) months, the supervisory period may be reduced to a minimum of three (3) months. The family services worker will make scheduled visits to the home at least monthly during this period to assist the child and the family in their adjustment to each other and will update the child's permanent record by means of monthly progress reports. When completion of the adoption is recommended by the field office and approved by the Permanency Program Specialist, the Department will request the prospective adoptive parent(s) contact their attorney. The regional family services worker will provide the attorney with the necessary documentation to file the petition for adoption. (3-30-07)

**861. PROGRESS REPORTS.**

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

**01. Initial and Subsequent Reports.** The first progress report must be made within two (2) weeks after placement, and subsequent progress reports must be made at intervals not to exceed thirty (30) days. These reports will include: (3-30-07)

- a.** The family services worker's observation of the child and the prospective adopting parent(s), with emphasis on: (5-3-03)
- b.** Special needs/circumstances of child(ren) at time of placement; (3-18-99)
- c.** Services provided to child(ren) and family during report period; (3-18-99)
- d.** Services to be provided to child(ren) and family; (3-18-99)
- e.** General appearance and adjustment of child(ren) during report period (may include eating, sleep patterns, responsiveness, bonding); (3-18-99)
- f.** School/day care/day treatment program adjustment; (3-18-99)
- g.** Health/developmental progress, medical practitioner information; (3-18-99)
- h.** Whether the child(ren) have been accepted for coverage on family's medical insurance, when coverage begins, and whether there will be any limitations/exclusions; (3-30-01)
- i.** Family's adjustment to adoptive placement; (3-18-99)
- j.** Whether respite care is a need for the family; (3-18-99)
- k.** Changes in family situation or circumstances; (3-18-99)
- l.** Areas of concern during report period as addressed by both child(ren) and adoptive parent(s); and (5-3-03)
- m.** Date of next required six (6) month review or twelve (12) month permanency hearing; (3-18-99)

**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)

**03. Final Progress Report.** The final report must include pertinent information about the readiness of

the child and the family for completion of the adoption. The family's decision to apply for adoption assistance benefits for the child should be documented. The family's attorney who will be handling the finalization of the adoption should be identified. The family's health insurance carrier should be identified, along with the date the child's medical coverage will begin. An up-to-date medical report on the child must be obtained from the child's physician, so that the Department will have current information about the health of the child. Any problem in placement must be brought to the attention of the Department. (3-30-07)

**862. PETITION TO ADOPT UNDER THE ADOPTION OF CHILDREN ACT.**

**01. Filing a Petition.** When the family and the child who was placed for adoption in that home are ready to finalize the adoption, the family's attorney shall file a petition to adopt with the court. A copy of that petition shall be served upon the director of the Department. Upon receipt of a copy of the petition to adopt, the family services worker, licensed children's adoption agency worker or certified adoption professional shall verify the allegations set forth in the petition and make a thorough investigation of the matter and report the findings in writing to the court within thirty (30) days. (3-20-04)

**02. Registration and Acknowledgment.** Upon receipt of the petition to adopt, the field office shall register the petition and acknowledge receipt to the court and to the petitioner(s) or private adoption agency. If the licensed adoption agency or certified adoption professional who completed the pre-placement home study is not identified, the information should be obtained from the petitioner(s)' attorney. The register shall indicate the date the petition was received, the date the study is due in court, the date the completed study was sent to the court, whether an Indian child is involved, and other pertinent data. (3-20-04)

**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 shall be requested in writing of the court, stating the reasons for the request. If the worker suspects that the child is of Indian heritage and the child's tribe or the Secretary of the Interior has not been notified, the worker shall 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 shall address the following: (3-20-04)

**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 shall 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 shall include but is not limited to the following: (3-20-04)

- 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.** Indian child's parent(s) or Indian custodian(s), and 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 shall address the needs of the child, including but not limited to: (3-20-04)

**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 shall 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 (3-30-01)

**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 shall record such alleged relationship and specify the documentary evidence the petitioners have of that relationship. (3-30-01)

**04. Evaluation and Recommendation.** The family services worker shall provide a brief summary of data presented in prior sections and the pre-placement home study, supporting the recommendation regarding the adoption. (3-20-04)

**05. Medical Information.** A copy of medical and genetic information compiled in the investigation shall be made available to the prospective adoptive family by the family services worker or certified adoption professional prior to the final order of adoption. (3-20-04)

**06. Confidentiality of Information.** The family services worker shall exercise caution in discussing identifying information and avoid revealing that information in the petition while attempting to secure the necessary facts for the study. (3-30-01)

**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 to Section 18-1511, Idaho Code. (3-20-04)

**864. -- 869. (RESERVED).**

**870. REMOVAL OF A CHILD FROM A PROSPECTIVE ADOPTIVE HOME.**

Despite careful assessment of the child and the family prior to placement, circumstances may arise which make it necessary to remove the child from the prospective adoptive home prior to adoption. The child may manifest problems the family is unable to accept or to handle constructively; or changed circumstances may develop which make it inadvisable for the placement to continue. The final decision to remove a child from a prospective adoptive home will be made by the Department as the legal guardian of the child and reported to the State Adoption Program Specialist. (3-20-04)

**871. TEMPORARY REPLACEMENT AFTER DISRUPTION.**

When a disruption occurs and it becomes necessary to remove a child from a prospective adoptive home, the field office where the child has been placed shall be responsible for finding a temporary arrangement for the child until another permanent placement can be arranged. In the case of the adoption of an Indian child, the consent of the

parent(s) may be withdrawn for any reason at any time prior to the entry of a final decree of adoption, and the child returned to the parent(s). (3-20-04)

**872. PREFERENCES FOR TEMPORARY PLACEMENT -- INDIAN CHILD.**

Preferences for placement of an Indian child shall 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. (3-18-99)

**873. -- 879. (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 shall complete an adoption application and financial statement, and submit medical reports and four (4) references. (5-3-03)

**02. Update of Adoption Study.** The prospective adoptive family shall assist in amending the original adoption study to include information concerning the acceptance and adjustment of the child previously placed in the home, a photograph of the family, including the child previously placed in the home, and their special request for another placement. (3-30-01)

**881. CLOSURE OF CASE.**

The family services worker shall request from the adopting parent(s)' attorney, a certified copy of the final order of adoption, and a copy of the family service worker's executed consent to adoption taken at the time of the adoption finalization. These documents are necessary to close the adoption file and initiate the child's adoption assistance benefits. (5-3-03)

**882. RECORDS OF PLACEMENT.**

Upon finalization of the adoption, the complete record from the local field office, regarding the child and family will be requested by the State Adoption Program Specialist for permanent storage. Records of adoption involving Indian children shall be forwarded by the State Adoption Program Specialist to the Secretary of the Interior. (3-18-99)

**883. POST-LEGAL ADOPTION SERVICES.**

Upon finalization of the adoption, the Department can offer post-legal adoption services upon request, including but not limited to, case management services, referrals for counseling or other supportive services. (3-18-99)

**884. OPENING SEALED RECORDS OF ADOPTIONS.**

In addition to the exceptions noted in Section 16-1511, Idaho Code, a sealed adoption proceedings may be opened in the following circumstances according to the Indian Child Welfare Act: (3-20-04)

**01. Motion of an Indian Individual.** Upon motion of an Indian individual who has reached the age of eighteen (18) and was the subject of an adoption, the court shall provide tribal affiliation, if any, of the individual's biological parent(s) and other information necessary to protect any rights flowing from the individual's tribal relationship. (3-20-04)

**02. Request From the Secretary of the Interior or the Indian Child's Tribe.** Upon request of the Secretary of the Interior or the Indian child's tribe, evidence of efforts to comply with the Indian Child Welfare Act shall be made available to the parties requesting such information. (3-20-04)

**885. -- 888. (RESERVED).**

**CERTIFIED ADOPTION PROFESSIONAL**  
**(Sections 889 -- 899)**

**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 Family and Children's Services Program, such as social work, psychology, family counseling or other related behavioral science; and (3-20-04)

**02. Adoption Training.** Must have completed a minimum of twenty (20) hours of training in adoption services within the last four (4) years. (3-20-04)

**03. 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 889.02 of this rule. (3-20-04)

**890. TERMS OF CERTIFICATION FOR ADOPTION PROFESSIONALS.**

**01. Certification.** Certification for adoption professionals will be completed through the regional Family and Children's office and will be effective for a period of four (4) years. (3-20-04)

**02. Recertification.** Certified adoption professionals must apply for renewal of their certificate every four (4) years and provide documentation of twenty (20) hours of current adoption training during that period. (3-20-04)

**03. 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 shall 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: (3-20-04)

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

**b.** Failure to gain twenty (20) 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)

**04. Decertification.** A certified adoption professional can be decertified by the Department at any time during a four (4) year period of certification. Notification of decertification will be made by the Department by certified mail. The notice shall 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: (3-20-04)

**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 placement supervision reports. (3-20-04)

**891. CERTIFIED ADOPTION PROFESSIONAL'S CLIENT RELATIONSHIP.**

A certified adoption professional shall not assume a legal relationship with any child for whom they have been



contracted to perform services. (3-20-04)

**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. (3-30-01)

**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 Family and Children's Services program manager or designee one (1) week prior to the required court filing date. The regional designee will be responsible for monitoring of quality of the services provided. (3-20-04)

**894. FEES CHARGED BY THE DEPARTMENT.**

Monitoring fees shall accompany the submission of each report and be paid directly to the Department through the Family and Children's Services' regional office as follows:

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

(3-30-01)

**895. DEPARTMENT RESPONSIBILITY TO CERTIFIED ADOPTION PROFESSIONAL.**

The regional Family and Children's Services designee shall review the reports provided within a timely manner to insure filing of documentation by required court date by the certified adoption professional. The region shall initiate corrective action plans when the documentation of any certified adoption professional is determined to be incorrect or substandard. (3-20-04)

**896. -- 899. (RESERVED).**

**ADOPTION ASSISTANCE**  
**(Sections 900 -- 999)**

**900. ADOPTION ASSISTANCE.**

The purpose of the adoption assistance program is to encourage the legal adoption of children with special needs who would not be able to have the security of a permanent home without support payments. Applications are made through the Division of Family and Community Services, Resource Development Unit for a determination of eligibility. Once an application for adoption assistance is submitted to the Division of Family and Community Service's, the Division will respond with a determination of the child's eligibility within forty-five (45) days. (3-30-07)

**01. Determination of Eligibility for Title IV-E Adoption Assistance.** The Bureau of Family and Children's Services will determine whether a child is a child with special needs. Children applying for adoption assistance benefits must meet Idaho's definition of a child with special needs according to Section 473 (c) of P.L. 96-272 (The Adoption Assistance and Child Welfare Act of 1980). There are five (5) ways a child can be eligible for Title IV-E adoption assistance: (3-30-07)

**a.** Child is Aid to Families with Dependent Children (AFDC) eligible, is in the custody or care of the public child welfare agency or an Indian tribe with whom the state has a IV-E agreement and meets the definition of a child with special needs. For children whose adoption assistance eligibility is based on the child's AFDC eligibility, the child must meet the AFDC criteria both at the time of removal from his home and in the month the adoption petition is filed. (5-3-03)

i. If the child is removed from his home pursuant to the first judicial determination, such determination must indicate that it was contrary to the welfare of the child to remain in the home. (5-3-03)

ii. If the child is removed from the home pursuant to a voluntary out-of-home placement agreement, the child must receive at least one (1) Title IV-E foster care payment to be eligible for Title IV-E adoption assistance. (5-3-03)

**b.** Child is eligible for Supplemental Security Income (SSI) benefits and meets the definition of a child with special needs. (5-3-03)

i. A child is eligible for adoption assistance if, at the time the adoption petition is filed, the child has met the requirements for Title XVI (SSI) benefits; (5-3-03)

ii. The circumstances of a child's removal from his home or whether the public child welfare agency has responsibility for the child's placement and care is not relevant. (5-3-03)

**c.** Child has been voluntarily relinquished to a private non-profit adoption agency and meets the definition of a child with special needs. (5-3-03)

i. The child must meet the requirements, or would have met the requirements, of the AFDC program as such sections were in effect on July 16, 1996, in or for the month in which the relinquishment occurred, or court proceedings were held which lead to the removal of the child from his home; (5-3-03)

ii. At the time of the voluntary placement or relinquishment, the court must make a judicial determination that it would be contrary to the welfare of the child for the child to remain in the home. (5-3-03)

**d.** Child is eligible for Title IV-E adoption assistance as a child of a minor parent and at the time of the adoption petition the child meets the definition of a child with special needs. (5-3-03)

i. The child's parent is in foster care and receiving Title IV-E foster care maintenance payments that cover both the minor parent and child at the time the adoption petition is filed; and (5-3-03)

ii. The child continues to reside in the foster home with his minor parent until the adoption petition has been filed. If the child and minor parent have been separated in foster care prior to the time of the adoption petition, the child's eligibility for Title IV-E adoption assistance must be determined based on the child's current and individual circumstances. (5-3-03)

**e.** Child is eligible due to prior Title IV-E adoption assistance eligibility and meets the definition of a child with special needs. (5-3-03)

i. A child whose adoption later dissolves or the adoptive parent(s) die, may continue to be eligible for Title IV-E adoption assistance in a subsequent adoption. (5-3-03)

ii. The subsequent adoption of a child may be arranged through an independent adoption, private agency, or state agency. (5-3-03)

iii. No needs or eligibility redetermination is to be made upon a subsequent adoption. The child's need and eligibility remain unchanged from what they were prior to the initial adoption. (5-3-03)

iv. It is the responsibility of the placing state to determine whether the child meets the definition of special needs and to pay the subsidy in a subsequent adoption. (5-3-03)

**02. Special Needs Criteria.** The definition of special needs includes the following factors: (3-30-07)

**a.** The child cannot or should not be returned to the home of the parents; and (3-18-99)

**b.** The child has a physical, mental, emotional or medical disability, or is at risk of developing such

disability based on known information regarding the birth family and child's history, or (3-18-99)

c. The child's age makes it difficult to find an adoptive home; or (3-18-99)

d. The child is a member of a sibling group that must not be placed apart; and (5-3-03)

e. State must make a reasonable but unsuccessful effort to place the child with special needs without a subsidy, except in cases where it is not in the best interests of the child due to his significant emotional ties with the foster parent(s) or relative(s) who are willing to adopt the child. (5-3-03)

**03. Determination of Eligibility for State Funded Adoption Assistance.** Children in state custody who meet the special needs criteria found in Subsection 900.02 of these rules and do not meet any of the criteria for Title IV-E adoption assistance found at Subsection 900.01 in these rules, may be eligible for state-funded adoption assistance benefits. If the child is determined ineligible for Title IV-E adoption assistance, the application will be evaluated for a state-funded subsidy. (3-30-07)

**04. Interjurisdictional Adoptions.** When a child's adoption is arranged through the care and placement of a private non-profit adoption agency in another state and the adoptive family are residents of Idaho, the state of Idaho is responsible for the eligibility determination, negotiation, and payment of any subsequent Title IV-E adoption assistance benefits. (3-30-07)

**901. ATTEMPT TO PLACE WITHOUT ADOPTION ASSISTANCE.**

The Department is required to attempt to place all children for adoption without adoption assistance. However, all adoptive families are entitled to full information and disclosure regarding the adoption assistance program. Once the most suitable family is located for the child, the family will be informed of the needs and history of the child and asked if they can adopt the child without adoption assistance. If the family indicates that they need adoption assistance, the Department will begin the process of determining the amount and type of benefits for the child. (3-18-99)

**902. -- 909. (RESERVED).**

**910. TYPES AND AMOUNTS OF ASSISTANCE.**

The needs of the child and the family, including any other children in the family, will be considered in determining the amount and type of support to be provided. Assistance may include the following: (3-30-07)

**01. Nonrecurring Adoption Reimbursement.** Payment for certain one (1) time expenses necessary to finalize the adoption may be paid when a family adopts a special needs child. The child's eligibility must be determined and the contract for reimbursement must be fully executed prior to the finalization of the adoption. The reimbursement is paid only after the adoption finalizes. The expenses are defined as reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption finalization of a child with special needs and which are not incurred in violation of state or federal law. They may include mileage and lodging involved in visiting the child before placement occurs. These expenses cannot be reimbursed if they are paid for the adoptive parents by other sources such as an employer. Documentation of expenses must be submitted. Costs are reimbursable up to two thousand dollars (\$2,000) per child and are entered on the Adoption Assistance Program Agreement. Families applying for Nonrecurring Adoption Reimbursement separate from the regular Adoption Assistance program must submit an application for Nonrecurring Adoption Expenses Reimbursement, obtain a determination of eligibility, and negotiate a Nonrecurring Adoption Expenses Reimbursement Agreement prior to the finalization of the child's adoption. Families applying for Nonrecurring Adoption Expenses Reimbursement on behalf of a child who is adopted through an international adoption must submit an application for Nonrecurring Adoption Expenses Reimbursement, obtain a determination of eligibility, and negotiate a Nonrecurring Adoption Expenses Reimbursement Agreement prior to the family's departure to the foreign country and the child's adoption in the foreign country. Children for whom the adoption has been finalized without a negotiated Nonrecurring Expenses Reimbursement Agreement are not eligible to apply for these benefits. (5-3-03)

**02. Monthly Cash Payment.** Financial assistance in the form of a monthly cash payment may be established to assist the adoptive family in meeting the additional expenses of the child's special needs. The amount of the payment must be negotiated with the family by the adoption worker and based on the family's circumstances

and what additional resources are needed to incorporate the child into the adoptive family. The amount must not exceed the rate for family foster care which would be made if the child were in a family foster home in Idaho. For children who meet the definition of special needs at Subsection 900.02 of these rules, no monthly cash payment is allowable until such time as the specific disability for which the child is known to be at risk becomes evident. For children who are currently eligible for Personal Care Services (PCS), the professional foster care rate may be used in negotiating the adoption assistance upon prior approval of the Department's Family and Community Services (FACS) Division Administrator. Benefits will continue until the child reaches eighteen (18) years, based upon an annual determination of continuing need. (3-30-07)

**03. Title XIX -- Medicaid Coverage.** Any child with special needs who has an adoption assistance agreement in effect is also eligible for medical coverage. A Title IV-E adoption assistance agreement provides Medicaid coverage in the state of Idaho and in all other states. Under a state-funded adoption assistance agreement, a child living in Idaho is eligible for Medicaid. If the family moves to another state, Medicaid may or may not be available. If Medicaid is not available in the new state, provisions for medical coverage must be contained in the adoption assistance agreement or in an amendment to the agreement. Families enrolled in a group health plan who plan to request to use Medicaid as the child's primary health care coverage must apply to the Idaho Health Insurance Premium Payment (HIPP) program at the time of benefit negotiation. Medicaid provides secondary coverage after the family's health insurance has reached its benefit limit. All services reimbursed by Medicaid must be determined to be medically necessary. Prior authorization may be required for some Medicaid reimbursable services. Medicaid benefits are available until the child reaches the age of eighteen (18), based upon an annual determination of continuing need. (3-30-07)

**04. Title XX -- Social Services.** Any child with special needs who has an Adoption Assistance Agreement is also eligible for state-authorized Title XX - Federal Social Services Block Grant funded services. (3-30-07)

**911. ADOPTION ASSISTANCE PROGRAM AGREEMENT.**

A written agreement shall be negotiated and fully executed between the Department and adopting family prior to the finalization of adoption and implementation of benefits. (3-18-99)

**01. Agreement Specifications.** The agreement shall specify the following: the type and amount of assistance to be provided and that it may be adjusted periodically with the concurrence of the adoptive parent(s) to reflect changing circumstances; the date for annual renewals and that the renewal depends on availability of funds; and that payments shall begin after the final certified copy of the Order of Adoption is received by the Department. The adoptive parent(s) are required to inform the state agency of any circumstances which would make them ineligible for adoption assistance payments, or eligible for adoption assistance payments in a different amount. (5-3-03)

**02. Termination of Adoption Assistance.** Adoption assistance will be terminated if the adoptive parent(s) no longer have legal responsibility for the child as a result of termination of parental rights, the child is no longer receiving any financial support from the parents, or the child has reached the age of eighteen (18) years regardless of the child's educational status. (4-11-06)

**03. Adoption Assistance Follows the Child.** If the adoptive parents are located in a state other than Idaho, or move out of Idaho with the child, the adoption assistance payments initiated by Idaho will continue for the child. If the child is IV-E or state-funded adoption assistance eligible, referral for Medicaid or other state medical insurance and social service benefits will be forwarded to the new state of residence through the Interstate Compact on Adoption and Medical Assistance. Non IV-E eligible children receiving a state adoption subsidy, may not be eligible for Medicaid in a state other than Idaho. (5-3-03)

**912. -- 919. (RESERVED).**

**920. REQUEST FOR RECONSIDERATION FOR ADOPTION ASSISTANCE.**

Families who adopted a child, or children with special needs on or after April 1, 1982, through either the Department or a licensed Idaho children's adoption agency may be eligible for benefits through the Adoption Assistance program. Persons who adopted their relative children, may also be eligible for these adoption assistance benefits. Per Public Law 96-272, the adoptive family must sign an adoption assistance agreement prior to the finalization of the adoption

in order for the child to receive benefits. Adoptive families who were not informed of these benefits or who were wrongly denied these benefits may submit an application to the Department prior to the eighteenth birthday of the adopted child for a determination of eligibility for these benefits. The Division of Family and Community Services shall determine eligibility based on the eligibility factors determining a special needs child that were in effect at the time of the child's adoption. If the IV-E eligibility determination finds that a child was eligible for these benefits at the time of the child's adoption, and an agreement was not signed prior to the finalization, the Department is required to deny benefits to the child, since no contract was in effect at the time of the adoption finalization. The adoptive family may request a fair hearing for adoption assistance IV-E eligibility determination. The determinations to be made at this hearing are whether extenuating circumstances exist and/or whether the family was wrongly denied eligibility. The Division of Family and Community Services may not change its eligibility determination for a child eligible for IV-E adoption assistance benefits and provide adoption assistance based on extenuating circumstances without obtaining a favorable ruling from a fair hearing officer. (3-18-99)

**921. BURDEN OF PROOF -- EXTENUATING CIRCUMSTANCES.**

The family has the burden of proving extenuating circumstances at the fair hearing, although, if the state agency is in agreement that the family had erroneously been denied benefits, the agency may provide such facts to the family or present corroborating facts on behalf of the family to the fair hearing officer. Once the hearing officer rules in favor of a family that extenuating circumstance exist and that the child is eligible for IV-E adoption assistance benefits, the agency must negotiate an agreement with the adoptive family consistent with these rules. (3-18-99)

**922. RETROACTIVE ADOPTION ASSISTANCE BENEFITS.**

The Department of Health and Welfare, Division of Family and Community Services may negotiate retroactive adoption assistance benefits for a maximum of twenty-four (24) months from the date of adoption assistance application, identified in Section 920 of these rules. (3-20-04)

**923. DISRUPTION OF INTERNATIONAL ADOPTIONS.**

The Intercountry Adoption Act of 2000 (P.L. 106-279) requires that each state make an annual report of children who were adopted from other countries who enter state guardianship as a result of termination of the parental rights of the adoptive parent and the dissolution of the adoption. The report will include the name of the agency who handled the placement or the adoption, the plans for the child, and the reasons for the disruption or dissolution. Each region will collect this information and send it to the Department's Permanency Program Specialist in January of each year. (3-30-07)

**924. -- 999. (RESERVED).**

# Subject Index

## A

AFDC-FC & SSI Eligibility 26  
AFDC-FC Eligibility Requirements 23  
ASFA Placement Preferences, Protections & Safeguards, Family & Children's Services 17  
Abandonment, Involuntary Termination of Parental Rights 46  
Ability of Providers, Considerations for Placement in Alternative Care 20  
Absent Parent, Report to the Court-Involuntary Termination 47  
Access To Services, Child Mental Health Services 39  
Accounting & Reporting 27  
Active Efforts, Protections & Safeguards Family & Children's Services 16  
Adoption Application Fee 50  
Adoption Assistance 7, 57  
Adoption Assistance Follows the Child, Adoption Assistance Program Agreement 60  
Adoption Assistance Program Agreement 60  
Adoption Assistance, Services to be Provided in Adoptions 42  
Adoption Services 7  
Adoption Services Policy 42  
Adoption Services, Core Family & Children's Services 15  
Adoptive Home Studies 49  
Agreement Specifications, Adoption Assistance Program Agreement 60  
Aid To Families With Dependent Children - Foster Care (AFDC-FC) Eligibility 23  
Allegations, Involuntary Termination 47  
Alternate Care 7  
Alternate Care (Placement) Services, Core Family & Children's Services 14  
Alternate Care Case Management 20  
Alternate Care Licensure 29  
Alternate Care Plan 7  
Alternate Care Plan Required 22  
Alternate Care Planning 22  
Appeal of a Denial for Petition for Removal 37  
Applicant Responsibilities 49  
Application & Data Collection 48  
Application To Be Adoptive Parents 48  
Applications For Subsequent Adoptions 55

Area of Concern 7  
Assessment & Safety, Service Planning Services, Core Family & Children's Services 14  
Assigning Reports For Risk Assessment, Reporting Abuse, Abandonment Or Neglect 32  
Assignment of Child Support 27  
Attempt To Place Without Adoption Assistance 59  
Attendance at Permanency Hearings 19  
Authority For Alternate Care Services 19  
Availability of Potential Adoptive Families, Suitability of Adoptive Parents 50

## B

Burden Of Proof - Extenuating Circumstances 61

## C

Certified Adoption Professional 8  
Certified Adoption Professional's Client Relationship 56  
Charges To Parent(s) Or Legal Guardian(s) 39  
Charges, Fee Determination for Services Other Than Out-of-Home Care 41  
Child Custody Investigations For The District Court 38  
Child Mental Health 8  
Child Mental Health Services 8, 38  
Child Protection Central Registry 34  
Child Protection Immediate Safety & Comprehensive Assessments 33  
Child Protection Level Four 36  
Child Protection Level One 35  
Child Protection Level Three 36  
Child Protection Level Two 35  
Child Protection Services 31  
Child Protective Services 8  
Child-Related Factors, Investigation 46  
Citizen Review Panels 19  
Closure Of Case 55  
Collateral Interviews, Child Protection Risk Assessment 33  
Collection of Child Support 27  
Community Resources, Reporting Abuse, Abandonment Or Neglect 33  
Community Treatment Services, Core Family & Children's Services 14  
Compact Administrator 8  
Compelling Reasons, Not Terminating

Parental Rights, Protections & Safeguards, Family & Children's Services 17  
Completion of a Comprehensive Assessment, Child Protection Risk Assessment 33  
Compliance With Multi-Ethnic Adoption Provisions & Interethnic Adoption Provisions, Services to be Provided In Adoptions 42  
Compliance With Requirements of the Multiethnic Placement Act, Protections & Safeguards, Family & Children's Services 16  
Compliance With the Indian Child Welfare Act, Report to the Court-Involuntary Termination 47  
Conduct Of The Assessment, Child Custody Investigations for the District Court 38  
Confidentiality Of The Child Protection Central Registry 34  
Confidentiality of Information, Investigation of Petition to Adopt 54  
Consent for Medical Care, Alternate Care Case Management 21  
Considerations For Placement In Alternative Care 20  
Considerations in Six Month Review 18  
Contact With Child, Alternate Care Case Management 21  
Cooperation With Law Enforcement 38  
Core Family & Children's Services 14  
Costs Of Prescription Drugs 28  
Costs Paid by Medicaid, Dental Care 28  
Court Ordered Service, Core Family & Children's Services 14  
Court-Ordered Child Protection Risk Assessment 37  
Criminal History & Background Check Requirements 7  
Crisis Services, Core Family & Children's Services 14  
Custody & Placement 24

## D

Date A Child Entered Foster Care 20  
Day Care for Children 8  
Day Treatment Services 8  
Decertification, Adoption Professionals 56  
Decision & Approval Process For Termination Of Parent & Child Relationship (TPR) 44

- Definitions, IDAPA 16.06.01, Rules Governing Family & Children's Services A Through E 7
- Definitions, IDAPA 16.06.01, Rules Governing Family & Children's Services F Through K 9
- Definitions, IDAPA 16.06.01, Rules Governing Family & Children's Services L Through R 10
- Definitions, IDAPA 16.06.01, Rules Governing Family & Children's Services S Through Z 12
- Degree of Relationship of the Child to Petitioners, Investigation of Petition to Adopt 54
- Denial Of Application 48
- Denial of Recertification, Adoption Professionals 56
- Dental Care 28
- Department Clients, Child Custody Investigations for the District Court 38
- Department Custody, Authority for Alternate Care Services 19
- Department Responsibility To Certified Adoption Professional 57
- Deprivation 9
- Description of Investigation 46
- Desired Result 9
- Determination Of Eligibility For ADC-FC 24
- Determination of Eligibility for State Funded Adoption Assistance 59
- Determination of Eligibility for Title IV-E Adoption Assistance 57
- Development of the Alternate Care Plan 22
- Discharge Planning, Alternate Care Case Management 22
- Disposition Of Reports 34
- Disruption Of International Adoptions 61
- Drivers' Training & Licenses For Children In Alternate Care 28
- E**
- EPSDT Screening 28
- Efforts to Maintain Family, Report to the Court-Involuntary Termination 47
- Electronic & Physical Files, Family Case Records 17
- Eligibility Conditions, Title XIX Foster Child 26
- Eligibility for Guardianship Assistance, Services to be Provided in Legal Guardianships 43
- Emergencies, Dental Care 28
- Established Fee, Fee Determination for Services Other Than Out-of-Home Care 41
- Evaluation & Recommendation, Investigation of Petition to Adopt 54
- Exigent Circumstances, Independent, Relative & Stepparent Adoptions 51
- Extended Family Member of an Indian Child 9
- Extended Family, Involuntary Placement of Indian Children 20
- F**
- Facilities Operated By The State 29
- Factors To Be Considered In Determining Suitability Of Adoptive Parents 49
- Family & Children's Services (FACS) 9
- Family Assessment 9
- Family Assessment, Considerations for Placement in Alternative Care 20
- Family Case Record 9
- Family Case Records 17
- Family Circumstances, Report to the Court-Involuntary Termination 47
- Family Decision Making & Plan Development, Protections & Safeguards, Family & Children's Services 16
- Family History 44
- Family Involvement, Considerations for Placement in Alternative Care 20
- Family Plan 9
- Family Services Practice 15
- Family Services Worker 9
- Fee Determination For Services Other Than Out-Of-Home Care 40
- Fee Schedule - Adoptions Through Department 50
- Fees Charged By The Department 57
- Filing Of A Petition For Involuntary Termination Of Parent & Child Relationship 46
- Filing Of Petition For Voluntary Termination 45
- Final Progress Report 52
- Financial & Support Services, Alternate Care Case Management 22
- Financial Arrangements With the Parents, Financial Support for Children in Alternate Care 27
- Financial Arrangements, Alternate Care Case Management 21
- Financial Assistance to Obtain Guardianship, Services Provided in
- Legal Guardianships 43
- Financial Support For Children In Alternate Care 27
- Forwarding Of Benefits 26
- Foster Home Approved by Tribe, Involuntary Placement of Indian Children 20
- Foster Parent Adoptions 50
- G**
- General Requirements Applicable To All Family & Children's Services Programs 13
- Granting or Denying the Petition for Removal 37
- Group Foster Care 30
- Guardianship Assistance 9
- Guardianship Assistance Agreement, Services Provided in Legal Guardianships 43
- H**
- Health & Welfare Employees, Reporting Abuse, Abandonment or Neglect 31
- Highest Level of Need for Specialized Care, Specialized Foster Care 30
- Home Study, Supervisory Reports, & Reports Of The Court Fees 50
- Hospitalized Foster Child, Title XIX Foster Child 26
- I**
- ICWA Placement Preferences, Protections & Safeguards, Family & Children's Services 16
- ICWA Preferences, Protections & Safeguards, Family & Children's Services 16
- IV-E Foster Care 7
- Income, Benefits & Savings Of Children In Foster Care 26
- Independent Living 10
- Independent Living, Core Family & Children's Services 15
- Independent, Relative & Stepparent Adoptions 51
- Indian Child 10
- Indian Child Welfare Act (ICWA) 10
- Indian Child's Tribe 10
- Indian Child, Suitability of Adoptive Parents 50
- Indian Tribe 10
- Individual Authorized to Request Voluntary Services, General Requirements Applicable to All Family & Children's Services Programs 13

Information for Alternate Care Provider, Alternate Care Case Management 21

Information to be Provided to Family, General Requirements Applicable to All Family & Children's Services Programs 13

Information, Referral & Screening, General Requirements Applicable to All Family & Children's Services Programs 13

Initial & Subsequent Reports, Progress Reports 52

Initiating Family & Children's Services', General Requirements Applicable to All Family & Children's Services Programs 13

Insurance Coverage 27

Intensive Treatment Facilities 30

Intercountry Adoption Act of 2000 (P.L. 106-279) 10

Interethnic Adoption Provisions of 1996 (IEPA) 10

Interstate Compact on Out-of-State Placements, Core Family & Children's Services 14

Interstate Compact on the Placement of Children (ICPC) 10

Interview of Family, Child Protection Risk Assessment 33

Interview of a Child, Child Protection Risk Assessment 33

Interviews With Potential Applicants, Application to be Adoptive Parents 48

Investigation 45

Investigation Of Petition To Adopt & Report To The Court 53

Investigation, Report to the Court-Involuntary Termination 47

Involuntary Placement Of Indian Children 20

Involuntary Placement Under the Children's Mental Health Services Act, Access to Services 39

**J**

Judicial Determinations, Permanency Hearings 19

**K**

Kin 10

**L**

Least Restrictive Setting, Protections & Safeguards, Family & Children's Services 16

Legal Availability of the Child,

Investigation of Petition to Adopt 53

Legal Guardianship 11

Legal Requirements for Indian Children, Protections & Safeguards, Family & Children's Services 16

Licensed Indian Foster Home, Involuntary Placement of Indian Children 20

Licensure, Services Provided in Legal Guardianships 43

Local Resources & Plan Development, Access to Services 39

Lowest Level of Need for Specialized Care, Specialized Foster Care 29

**M**

Medicaid For Children In Alternate Care 28

Medical Emergencies 28

Medical Examination Upon Entering Alternate Care 28

Medical Examination, Adoptive Home Studies 49

Medical Information, Investigation of Petition to Adopt 54

Medical Information, Report to the Court-Involuntary Termination 47

Members of Six Month Review Panel 18

Minimum Standards For Service 57

Ministers, Reporting Abuse, Abandonment or Neglect 31

Moderate Level of Need for Specialized Care, Specialized Foster Care 30

Monthly Cash Payment, Types & Amounts of Assistance 59

Monthly Foster Care Payments - Pre-Adoptive Placement, Progress Reports 52

Motion of an Indian Individual, Opening Sealed Records of Adoptions 55

Multiethnic Placement Act of 1994 (MEPA) 11

**N**

Needs of Adoptive Child, Suitability of Adoptive Parents 50

Needs of the Child, Investigation of Petition to Adopt 54

Nonrecurring Adoption Reimbursement, Types & Amounts of Assistance 59

Notice Required For ICWA 17

Notice of Parental Responsibility, Financial Support for Children in Alternate Care 27

Notice of Six Month Review 18

Notification of Change in Placement, Birth Parents, Protections & Safeguards, Family & Children's Services 16

Notification of Change in Visitation, Birth Parents, Protections & Safeguards, Family & Children's Services 16

Notification of Right to Participate & Appeal, Birth Parents, Protections & Safeguards, Family & Children's Services 16

**O**

Ongoing Eligibility 25

Ongoing Eligibility, Title XIX Foster Child 26

Opening Sealed Records Of Adoptions 55

Outcomes, Child Mental Health Services 38

**P**

Payment - Group Foster Care 30

Payment - Intensive Care, Intensive Treatment Facilities 31

Payment For Shelter Care 29

Payment To Family Foster Care Providers 29

Payment by Department, Drivers' Training & Licenses for Children in Alternate Care 28

Payment by Parent(s) or Legal Guardian(s), Drivers' Training & Licenses for Children in Alternate Care 28

Payment for Treatment, Access to Services 39

Payment, Professional Foster Care 30

Period of Support Supervision, Services Provided in Adoptions 42

Periodic Review Of Benefits From Bureau Of Indian Affairs (BIA) 27

Permanency Hearings 19

Permanency Planning 11

Personal Care Services (PCS) 11

Petition To Adopt Under The Adoption Of Children Act 53

Petition Under The Child Protective Act 38

Petition for Removal of Individuals on the Child Protection Central Registry Prior to September 1, 2007 37

Petitioning For Removal From The Child Protection Central Registry 36

Petitioning for Removal From the Child Protection Central Registry 36



Placement Of The Child 50  
Placement Supervision - Transfer From  
Out Of State Private Agency 51  
Placement, Group Foster Care 30  
Planning, Report to the Court-  
Involuntary Termination 47  
Post Adoption Services, Services to be  
Provided in Adoptions 43  
Post-Legal Adoption Services 55  
Pre-Placement Adoptive Home  
Study 49  
Pre-Placement Child/Family  
Assessment, Services to be Provided  
in Adoptions 42  
Pre-Placement Home Study, Services to  
be Provided in Adoptions 42  
Preferences For Temporary Placement -  
Indian Child 55  
Preparation for Placement, Alternate  
Care Case Management 20  
Preparation for Placement, Services  
Provided in Adoptions 42  
Preparation for Placement, Services  
Provided in Legal Guardianships 43  
Preventative Services, Core Family &  
Children's Services 14  
Priority I, Response Priorities Abuse,  
Abandonment or Neglect 32  
Priority II, Response Priorities Abuse,  
Abandonment or Neglect 32  
Priority III, Response Priorities Abuse,  
Abandonment or Neglect 32  
Procedure in the Six Month  
Review 18  
Procedures Following The Adoptive  
Placement 52  
Professional Foster Care 30  
Progress Reports 52  
Prospective Adoptive Parent is the  
Spouse of a Child's Parent 51  
Protections & Safeguards For Children  
& Families 15  
Psychological Evaluation 48  
Purchase of Services 11

## Q

Qualifications, Professional Foster  
Care 30  
Qualified Expert Witness--ICWA 11  
Qualified Individual Professional  
Requirements 56

## R

Reasonable Efforts to Reunify the  
Family Are Not Required,  
Involuntary Termination of Parental  
Rights 46  
Reasonable Efforts, Protections &

Safeguards, Family & Children's  
Services 15  
Recertification, Adoption  
Professionals 56  
Record of Request for Services, General  
Requirements Applicable to All  
Family & Children's Services  
Programs 13  
Records Of Placement 55  
Records Of The Certified Adoption  
Professional 57  
Referral - Group Foster Care 30  
Referral - Intensive Treatment,  
Intensive Treatment Facilities 31  
Referral To Child Support Services 27  
Reimbursement In The Home Of A  
Relative 31  
Removal Of A Child From A  
Prospective Adoptive Home 54  
Report To Court - Voluntary  
Termination 45  
Report To The Court - Involuntary  
Termination 46  
Report to Court, Child Custody  
Investigations 38  
Reporting Abuse, Abandonment Or  
Neglect 31  
Reporting System, Reporting Abuse,  
Abandonment Or Neglect 31  
Reports Involving Indian Children,  
Reporting Abuse, Abandonment Or  
Neglect 32  
Reports Involving Military Families,  
Reporting Abuse, Abandonment Or  
Neglect 32  
Request For Reconsideration For  
Adoption Assistance 60  
Request From the Secretary of the  
Interior or The Indian Child's Tribe,  
Opening Sealed Records of  
Adoptions 55  
Requests From Private Attorney, Child  
Custody Investigations for the  
District Court 38  
Reservation 12  
Residence, Adoptive Home  
Studies 49  
Respite Care 12  
Response Priorities, Reporting Abuse,  
Abandonment Or Neglect 32  
Retroactive Benefits, Services Provided  
in Legal Guardianships 43  
Return to Alternate Care, Forwarding of  
Benefits 26  
Review After Six Months, Forwarding  
of Benefits 27  
Revocation of Legal Guardianship,

Services Provided in Legal  
Guardianships 43  
Role of Law Enforcement, Child  
Protection Risk Assessment 33

## S

Safe Haven Exemption For Parents Of  
Certain Abandoned Infant 37  
Screening of Adoptive Applicants,  
Application to be Adoptive  
Parents 48  
Serious Emotional Disturbance  
(SED) 12  
Service Management, Core Family &  
Children's Services 14  
Services To Be Provided In  
Adoptions 42  
Services To Be Provided In Legal  
Guardianships 43  
Six Month Reviews Conducted By The  
Department 18  
Sliding Scale Fee, Services Provided To  
A Child In Home 40  
Social Service Block Grant 12  
Specialized Foster Care 29  
Standards For Safeguarding Information  
Concerning Applicants & Recipients  
Of Services 18  
Storage of Records, Family Case  
Records 17  
Substantiated Reports On The Child  
Protection Central Registry 34  
Substantiated, Disposition of  
Reports 34  
Supervisory Review - Certain Priority I  
& II Cases, Response Priorities  
Abuse, Abandonment Or  
Neglect 32  
Support Agreement For Voluntary  
Placements 27  
Support In Court-Ordered  
Placement 27

## T

Target Population 12  
Temporary Re-Placement After  
Disruption 54  
Termination of Adoption Assistance,  
Adoption Assistance Program  
Agreement 60  
Termination of Guardianship Assistance  
When Child Leaves Home of the  
Legal Guardian(s), Services Provided  
in Legal Guardianships 43  
Terms Of Certification For Adoption  
Professionals 56  
Title IV-E 12  
Title XIX - Medicaid Coverage, Types

& Amounts of Assistance 60  
Title XIX (Medicaid) 12  
Title XIX Foster Child 26  
Title XXI 13  
Transition Planning, Alternate Care  
Case Management 22  
Treatment Plan, Professional Foster  
Care 30  
Tribal Court 13  
Types & Amounts Of Assistance 59

**U**

Unmarried Parents' Services 13  
Unsubstantiated, Disposition of  
Reports 34  
Use of Public Funds & Benefits, Access  
to Services 39

**V**

Verification of Ages of Adopting  
Parents, Adoptive Home Studies 49  
Visitation for Child's Parent(s) or Legal  
Guardian(s), Protections &  
Safeguards, Family & Children's  
Services 16  
Voluntary Consent 45  
Voluntary Placement, Authority for  
Alternate Care Services 19  
Voluntary Services Agreement 13  
Voluntary Termination 45  
Voluntary Termination Of Parental  
Rights To An Indian Child 45