

## IDAPA 16 – IDAHO DEPARTMENT OF HEALTH AND WELFARE

### Division of Family and Community Services

#### 16.06.01 – Child and Family Services

##### **Who does this rule apply to?**

*This chapter covers: alternate care (i.e., out-of-home/foster care) including children under the Indian Child Welfare Act (ICWA), eligibility for Title IV-E funds, medical and dental coverage for children in out-of-home care, licensure and reimbursement of alternate care providers, child protection services (including the Child Protection Central Registry), adoption services, termination of parent-child relationship, becoming and adoptive parent, adoption placement, becoming a certified adoption professional, and adoption assistance.*

##### **What is the purpose of this rule?**

*These rules are established to govern the statewide provision of: (a) services associated with child protection, alternate care, and adoption; and (b) as resources are available, services aimed at preventing child abuse, neglect, and abandonment.*

##### **What is the legal authority for the agency to promulgate this rule?**

*This rule implements the following statutes passed by the Idaho Legislature:*

Juvenile Proceedings -

Child Protective Act:

- [Section 16-1629, Idaho Code](#)
- [Section 16-1623, Idaho Code](#) – Amended Disposition – Removal During Protective Supervision

Interstate Compact on the Placement of Children:

- [Section 16-2102, Idaho Code](#) – Execution of Compact

Children's Mental Health Services:

- [Section 16-2406, Idaho Code](#) – Access to Services
- [Section 16-2423, Idaho Code](#) – Informed Consent to Medication or Other Treatment – Persons Subject to Involuntary or Emergency Treatment
- [Section 16-2433, Idaho Code](#) – Department Rules

Health and Safety –

Child Care Licensing Reform Act:

- [Section 39-1209, Idaho Code](#) – Standards for Children's Agencies
- [Section 39-1210, Idaho Code](#) – Standards for Children's Residential Care Facilities
- [Section 39-1211, Idaho Code](#) – Standards for Foster Homes

Personal Assistance Services:

- [Section 39-5603, Idaho Code](#) – Standards for Provision of Personal Assistance Services

Public Assistance and Welfare -

Public Assistance Law:

- [Section 39-7501, Idaho Code](#)
- [Section 56-202\(b\), Idaho Code](#) – Duties of the Director of State Dept. of Health and Welfare
- [Section 56-204A, Idaho Code](#) – Services for Children
- Hard-to-Place Children:
- [Section 56-803, Idaho Code](#) – Establishment of Program – Promulgation of Rules and Regulations
- [Section 56-1003, Idaho Code](#)
- [Section 56-1004, Idaho Code](#)

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- [Section 56-1004A, Idaho Code](#)
- [Section 56-1007, Idaho Code](#)

**Where can I find information on Administrative Appeals?**

*Administrative appeals and contested cases are governed by the provisions of IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Rulings.”*

**How do I request public records?**

*Unless exempted, all public records are subject to disclosure by the Department that will comply with Title 74, Chapter 1, Idaho Code, upon requests. Confidential information may be restricted by state or federal law, federal regulation, and IDAPA 16.05.01, “Use and Disclosure of Department Records.”*

**Who do I contact for more information on this rule?**

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Webpage: <https://healthandwelfare.idaho.gov/Children/AbuseNeglect/tabid/74/Default.aspx>

Children’s Services: <https://healthandwelfare.idaho.gov/Children/tabid/57/Default.aspx>

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## 16.06.01 – CHILD AND FAMILY 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, 16-1623, 16-2102, 16-2406, 16-2423, and 16-2433, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code. (3-15-22)

### 001. TITLE, SCOPE, AND GOAL.

- 01. **Title.** These rules are titled IDAPA 16.06.01, “Child and Family Services.” (3-15-22)
- 02. **Scope.** These rules are established to govern the statewide provision of: (3-15-22)
  - a. Services associated with child protection, alternate care, and adoption; and (3-15-22)
  - b. As resources are available, services aimed at preventing child abuse, neglect, and abandonment. (3-15-22)
- 03. **Goal.** The goal of all Child and Family Services programs is the safety, permanency, and well-being of children, as well as promoting the stability and security of Indian tribes and families. (3-15-22)

### 002. -- 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.” (3-15-22)

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. (3-15-22)

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.” (3-15-22)

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

For the purposes of these rules, the following terms are used: (3-15-22)

01. **Adoption and Safe Families Act of 1997 (P.L. 105-89) (ASFA).** Federal law whose purpose is to improve the safety of children, to promote adoption and other permanent homes for children who need them, and to support families. (3-15-22)

02. **Adoption Assistance.** Funds provided to adoptive parent(s) of a child who has special needs or who could not be adopted without financial or medical assistance. (3-15-22)

03. **Adoption Services.** Protective services through which a child is provided with a permanent home, under new legal parentage, including transfer of the mutual rights and responsibilities that prevail in the parent-child relationship. (3-15-22)

04. **Alternate Care.** Temporary living arrangements, when necessary for a child to leave their own home, through a variety of foster care, respite care, residential treatment, and institutional resources, under 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, 25 U.S.C. Sections 1901-1963. (3-15-22)

- 05. Alternate Care Plan.** A federally required component of the Family Plan for a child in alternate care. The alternate care plan contains elements related to reasonable efforts, the family's plan, the 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. (3-15-22)
- 06. Board.** The Idaho State Board of Health and Welfare. (3-15-22)
- 07. Case Management.** A change-oriented service to families that ensures and coordinates the provision of family ongoing assessment, family service planning, treatment, planning for permanency, protection, advocacy, review and reassessment, documentation, and timely closure of a case. (3-15-22)
- 08. 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. (3-15-22)
- 09. Child and Family Services (CFS).** Those programs and services provided to families and children, administered by the Department in accordance with these rules. (3-15-22)
- 10. 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. (3-15-22)
- 11. Child Protective Services.** Services provided in response to potential, alleged, or actual abuse, neglect, or abandonment 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." (3-15-22)
- 12. Compact Administrator.** The individual designated to coordinate interstate transfers of persons requiring special services in accordance with the provisions of Section 16-1901 et seq., Idaho Code, "Interstate Compact for Juveniles"; Section 16-2101 et seq., Idaho Code, "Interstate Compact on the Placement of Children"; or Section 39-7501 et seq., Idaho Code, "Interstate Compact on Adoption and Medical Assistance." (3-15-22)
- 13. Daycare 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. (3-15-22)
- 14. Department.** The Idaho Department of Health and Welfare. (3-15-22)
- 15. 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. (3-15-22)
- 16. Director.** The Director of the Idaho Department of Health and Welfare or their designee. (3-15-22)
- 17. 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. (3-15-22)
- 18. Extended Foster Care.** A court order or voluntary case extending foster care placement services and authority for individuals between the ages of eighteen (18) and twenty-one (21) years to help such person achieve a successful transition to adulthood, provided such person must have been in the custody of the department until his eighteenth birthday and must meet the criteria set forth in 42 U.S.C. 675(8)(B)(iv). (3-15-22)



**011. DEFINITIONS AND ABBREVIATIONS F THROUGH K.**

For the purposes of these rules, the following terms are used: (3-15-22)

**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. (3-15-22)

**02. 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. (3-15-22)

**03. Family Case Record.** Electronic and hard copy compilation of all documentation relating to a family, including legal documents, identifying information, and evaluations. (3-15-22)

**04. 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. (3-15-22)

**05. Family Services Worker.** Case carrying personnel working in regional Child and Family Services Programs. (7-1-24)

**06. Federally-Funded Guardianship Assistance for Relatives.** Benefits described in Subsection 702.04 and Section 703 of these rules provided to a relative guardian for the support of a child who is fourteen (14) years of age or older, who, without guardianship assistance, would remain in the legal custody of the Department of Health and Welfare. (3-15-22)

**07. Field Office.** A Department of Health and Welfare service delivery site. (3-15-22)

**08. Independent Living.** Services provided to eligible foster or former foster youth, ages fourteen (14) to twenty-three (23), designed to support a successful transition to adulthood. (3-15-22)

**09. 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. (3-15-22)

**10. Indian Child.** Any unmarried person who is under the age of eighteen (18) who is: (3-15-22)

**a.** A member of an Indian tribe; or (3-15-22)

**b.** Eligible for membership in an Indian tribe, and who is the biological child of a member of an Indian tribe. (3-15-22)

**11. Indian Child Welfare Act (ICWA).** The Indian Child Welfare Act, 25 U.S.C. 1901, et seq. (3-15-22)

**12. Indian Child's Tribe.** (3-15-22)

**a.** The Indian tribe in which an Indian child is a member or eligible for membership, or (3-15-22)

**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. (3-15-22)

**13. 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). (3-15-22)

**14. 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. (3-15-22)

**15. Interethnic Adoption Provisions of 1996 (IEP).** IEP prohibits delaying or denying the placement of a child for adoption or foster care on race, color or national origin of the adoptive or foster parent(s), or the child involved. (3-15-22)

**16. Interstate Compact on the Placement of Children (ICPC).** Interstate Compact on the Placement of Children (ICPC) in Title 16, Chapter 21, Idaho Code, ensures that the jurisdictional, administrative, and human rights obligations of interstate placement or transfers of children are protected. (3-15-22)

**17. Kin.** Non-relatives who have a significant, family-like relationship with a child. Kin may include godparents, close family friends, clergy, teachers, members of a child's Indian tribe, and foster parents who have a significant relationship with the child for at least six (6) months. Also known as fictive kin. (6-5-24)T

**012. DEFINITIONS AND ABBREVIATIONS L THROUGH R.**

For the purposes of these rules, the following terms are used: (3-15-22)

**01. Legal Guardianship.** A judicially-created relationship, in accordance with Title 15, Chapter 5, Part 2, Idaho Code, including one made by a tribal court, between a child and a relative or non-relative. (3-15-22)

**02. Licensed.** Facilities or programs are licensed in accordance with the provisions of IDAPA 16.06.02, "Child Care Licensing." (3-15-22)

**03. Licensing.** See IDAPA 16.06.02, "Child Care Licensing," Section 100. (3-15-22)

**04. Medicaid.** See "Title XIX." (3-15-22)

**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. (3-15-22)

**06. Parent.** A person who, by birth or through adoption, is considered legally responsible for a child. The term "legal guardian" is not included in the definition of parent. (3-15-22)

**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. (3-15-22)

**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. (3-15-22)

**09. P.L. 96-272.** Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980." (3-15-22)

**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. (3-15-22)

**11. Planning.** An orderly rational process that results in identification of goals and formulation of timely strategies to fulfill such goals, within resource constraints. (3-15-22)

**12. Qualified Expert Witness--ICWA.** An individual who is an expert regarding tribal customs pertaining to family organization and child rearing practice, and is qualified to render an opinion as to whether 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. (3-15-22)

**13. Relative.** Person related to a child by blood, marriage, or adoption. (3-15-22)

**14. Relative Guardian.** A relative who is appointed a child's legal guardian in accordance with Title 15, Chapter 5, Part 2, Idaho Code, including a guardianship established by a tribal court. (3-15-22)

**15. Reservation.** A reservation is an area of land "reserved" by or for an Indian band, village, or tribe(s) to live on and use. Reservations were created by treaty, by congressional legislation, or by executive order. Since 1934, the Secretary of the Interior has had the responsibility of establishing new reservations or adding land to existing reservations. (3-15-22)

**16. Respite Care.** Time-limited care provided to children. Respite care is utilized in circumstances that require short term, temporary care of a child by a licensed or agency-approved caregiver different from their usual caregiver. The duration of an episode of respite care ranges from one (1) partial day up to fourteen (14) consecutive days. (3-15-22)

**013. DEFINITIONS AND ABBREVIATIONS S THROUGH Z.**

For the purposes of these rules, the following terms are used: (3-15-22)

**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. (3-15-22)

**02. Safety Assessment.** A process and standardized tool for contact between a family services worker and a family to objectively determine if safety threats, or immediate service needs exist that require further Child and Family Services response. (3-15-22)

**03. Safety Plan.** Plan developed by the Department and a family that assures the immediate safety of a child who has been determined to be conditionally safe or unsafe. (3-15-22)

**04. Sibling.** One (1) of two (2) or more persons who shares the same biological or adoptive mother or father, or both. Siblings may be full-siblings or half-siblings. Siblings include those children who would be considered a sibling if not for the disruption in parental rights due to termination of parental rights or the death of a parent. (3-15-22)

**05. State-Funded Guardianship Assistance.** Benefits described in Subsection 702.04 and Section 704 of these rules provided to a legal guardian for the support of a child who meets the eligibility criteria. (3-15-22)

**06. TAFL.** Temporary Assistance to Families in Idaho. (3-15-22)

**07. Title IV-E.** Title under the Social Security Act that provides funding for foster care maintenance and adoption assistance payments for certain eligible children. (3-15-22)

**08. Title 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. (3-15-22)

**09. Title XIX (Medicaid).** Title under the Social Security Act that provides "Grants to States for Medical Assistance Programs." (3-15-22)

**10. Title XXI.** (Children's Health Insurance Program). Title under the Social Security Act that provides access to health care for uninsured children under the age of nineteen (19). (3-15-22)

**11. Tribal Court.** A court with jurisdiction over child custody proceedings including 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 vested with authority over child custody proceedings. (3-15-22)

**12. Unmarried Parents' Services.** Services aimed at achieving or maintaining self-reliance or self-support for unmarried parents. These services include counseling for any unmarried parents 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. Services for unmarried parents are provided in accordance with Section 56-204A, Idaho Code. (3-15-22)

**13. Voluntary Services Agreement.** A written and executed agreement between the Department and parents or legal guardians regarding the goal, areas of concern, desired results, and task responsibility, including payment. (3-15-22)

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

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

**020. GENERAL REQUIREMENTS APPLICABLE TO ALL CHILD AND FAMILY 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: (3-15-22)

**a.** Accurate and current information about services to children and families provided through the Department. (3-15-22)

**b.** Referral to other appropriate public or private services available in the community; and (3-15-22)

**c.** A screening to determine service needs and safety threats that can be addressed through Child and Family Services. (3-15-22)

**02. Initiating Child and Family Services.** Child and Family 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. (3-15-22)

**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. (3-15-22)

**04. Record of Request for Services.** The date of referral or request for services will be documented in the records of the field office. (3-15-22)

**05. Information to Be Provided to Family.** Upon referral or application for services, the family services worker must inform the family that: (3-15-22)

**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; (3-15-22)

**b.** Fees may be charged for certain services, and that the parent(s) has financial responsibility for the child in care; (3-15-22)

**c.** They have the right to pursue an administrative appeal of any decision of Child and Family Services relating to them, including 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. (3-15-22)

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

**030. CORE CHILD AND FAMILY SERVICES.**

State and federally mandated core services provided by or through regional Child and Family offices include: (4-6-23)

**01. Crisis Services.** Crisis Services are an immediate response to ensure safety when a child is believed to be in imminent danger because of child abuse, neglect, or abandonment. Crisis services require immediate access to services always to assess safety and place in alternate care, if necessary, to ensure safety for the child. (4-6-23)

**02. Screening Services.** Initial contact with families and children to gather information to determine whether the child meets eligibility criteria to receive child protection or adoption services. When eligibility criteria is not met for Department mandated services, appropriate community referrals are made. (4-6-23)

**03. Assessment and Safety/Service Planning Services.** Assessment process in which the safety threats to the child, and the family's concerns, strengths, and resources are identified after which a written plan is developed by the worker, together with the family and other interested parties. Each plan must have a long-term goal that identifies behaviorally-specific and measurable desired results and has specific tasks that identify who, how, and when the tasks will be completed. (4-6-23)

**04. Prevention Services.** Evidence-based services that support children and families and are designed to reduce the risk of child abuse, neglect, or abandonment. (4-6-23)

**a.** These services are provided in the Family First Prevention Services Act (Public Law 115-123) under the categories of mental health, substance use prevention and treatment, and in-home parent skill-based programs and services. Additional services can be implemented through community education, and partnerships with other community agencies such as schools and courts. (4-6-23)

**b.** The Department sets the maximum hourly or flat rates for Prevention Services covered by Title IV-E federal funding and are based on the cost for services. When services are provided by private providers, payment must be made according to a contract authorized by the Child and Family Services Program Manager, based on the cost for services to be provided. Current information about services and rates can be obtained from Child and Family Services website. (4-6-23)

**05. Court-Ordered Services.** These services primarily involve court-ordered investigations or assessments of situations where children are believed to be at risk due to child abuse, neglect, or abandonment. (3-15-22)

**06. Alternate Care (Placement) Services.** Temporary living arrangements outside of the family home for children and youth who are victims of child abuse, neglect, or abandonment. The Department arranges and finances, in full or in part, out-of-home placements. 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 child care institution, a home licensed or approved 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 child placement or child care agency. (4-6-23)

**07. Community Support Services.** Services provided to a child and family in a community-based setting designed to increase the strengths and abilities of the child and family and to preserve the family whenever possible. Services include respite care and family preservation. (3-15-22)

**08. 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." Placements must follow all state and federal laws. (4-6-23)

**09. Independent Living.** Services, including assessment and planning, provided to eligible youth to promote self-reliance and successful transition to adulthood. (3-15-22)

**a.** Eligibility - Current Foster Youth. To be eligible for independent living services, the youth must: (4-6-23)

**i.** Be fourteen (14) to twenty-one (21) years of age; (3-15-22)

**ii.** Currently be under Department or tribal care and placement authority established by a court order or voluntary agreement with the youth's family, or be under a voluntary agreement for continued care if the youth is between eighteen (18) and twenty-one (21) years of age; and (3-15-22)

**b.** Eligibility - Former Foster Youth. To be eligible for independent living services, the youth must: (4-6-23)

**i.** Be a former foster youth who is currently under twenty-three (23) years of age; and (3-15-22)

**ii.** Have been under Department or tribal care and placement authority established by a court order or voluntary agreement with the youth's family, or under a voluntary agreement for continued care after the youth has reached eighteen (18) years of age; and (3-15-22)

**iii.** Have been placed in foster care or similar eligible setting for a minimum of ninety (90) days total after reaching sixteen (16) years of age or have aged out of foster care; or (3-15-22)

**iv.** Be eighteen (18) to twenty-three (23) years of age, provide verification of meeting the Independent Living eligibility criteria in another state, and currently be a resident of Idaho. (3-15-22)

**c.** Eligibility Limit. Once established as in Subsection 030.09.b. in this rule, a youth's eligibility is maintained up to their twenty-third birthday, regardless of whether they continue to be the responsibility of the Department, tribe, or be in foster care. (3-15-22)

**10. 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 parental rights and responsibilities to the family assessed as the most suitable to meet the needs of the individual child. Adoption services seek to build the community's capacity to deliver adoptive services. (4-6-23)

**11. Administrative Services.** Regulatory activities and services that assist the Department in meeting the goals of safety, permanency, health and well-being for children and families include: (4-6-23)

**a.** Child care licensing; (3-15-22)

**b.** Daycare licensing; (3-15-22)

**c.** Community development; and (3-15-22)

**d.** Contract development and monitoring. (3-15-22)

**031. -- 049. (RESERVED)**

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

The federal and state laws that are the basis for these rules include a number of mandatory protections and safeguards intended to ensure timely permanency for children and to protect the rights of children, their families, and their tribes. (3-15-22)

**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, and to finalize a permanent plan. The following efforts must be made 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. (3-15-22)

- a.** Efforts to prevent or eliminate the need for a child to be removed from their home; (3-15-22)
- b.** Efforts to return a child home are not required due to a judicial determination of aggravated circumstances; and (3-15-22)
- 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. (3-15-22)

**02. Active Efforts.** The efforts required under ICWA to provide remedial services and rehabilitative programs designed to prevent the breakup of an Indian family, or to reunify an Indian family. Active efforts must include contacts and work with an Indian child's tribe. (3-15-22)

**03. ICWA Placement Preferences.** (3-15-22)

**a.** When the Indian child's permanency goal is reunification, the preferences are described in Section 402 of these rules. (3-15-22)

**b.** When the Indian child's permanency goal is adoption or guardianship, the preferences are described in Subsection 800.01 of these rules. (3-15-22)

**c.** When the placement preferences are not followed, the court must determine that good cause exists for not following the preferences. (3-15-22)

**04. Least Restrictive Setting.** Efforts will be made to ensure that any child in the Department's care resides 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. (3-15-22)

**05. Legal Requirements for Indian Children.** When there is reason to believe that a child is an Indian child, notice of the pending proceeding must be sent according to the notice provisions specified in Section 051 of these rules. Notice must also include notice of the tribe's 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; and the right to examine all documents filed with the court upon which placement may be based. (3-15-22)

**06. Visitation for Child's Parent(s) or Legal Guardian(s).** The Department should determine the scope, duration, and manner of visitation that best promotes the best interest of the child and ensures that visitation does not impair the physical or mental health of a child. In-person visitation arrangements between a child and a parent who has been substantiated at a Level One or Two by the Department for one (1) of the following: sexual abuse, sexual exploitation, or physical abuse will not be granted unless it is in the best interest of the child and the child's physical and/or mental health will not be impaired. If in-person visitation is granted, it will only occur under the following conditions: (8-6-24)T

**a.** Approved by a program manager, after consultation with the child's guardian ad litem, where applicable, who concludes that in-person visitation is in the best interest of the child and that the child's physical and/or mental health will not be impaired; (8-6-24)T

**b.** Under conditions set forth by the program manager. Conditions of supervised visitation will include the following: (8-6-24)T

- i.** The parent will not be left alone with the child for any reason, including restroom breaks; (8-6-24)T

- ii. For sexual abuse and exploitation cases, the parent will not allow the child to sit on his or her lap; (8-6-24)T
  - iii. The parent will not be allowed to engage in secret conversations or other communication that cannot be monitored in real time; (8-6-24)T
  - c. The best interest decision and visit conditions are documented and explained in writing. (8-6-24)T
- 07. Notification of Change in Placement.** Written notification must be made within seven (7) days of a change of placement of the foster child if a child is relocated to another foster care setting. Notification must be sent to the child's parent(s) or legal guardian(s). When the child is an Indian child, written notification must also be sent to the child's Indian custodian(s), if applicable, and to the child's tribe. (3-15-22)
- 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. (3-15-22)
- 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. (3-15-22)
- 10. Qualified Expert Witness--ICWA.** The testimony of an expert witness is required at the hearing in which a child is placed in state custody, typically the adjudicatory, and at the hearing for termination of parental rights. A person who is most likely to be a qualified expert witness in the placement of an Indian child is: (3-15-22)
- 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; (3-15-22)
  - 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; or (3-15-22)
  - 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. (3-15-22)
- 11. Compliance with Requirements of the Multiethnic Placement Act of 1994 (MEPA) as Amended by the Interethnic Adoption Provisions (IEP) of 1996.** (3-15-22)
- a. The Department prohibits entities that are involved in foster care or adoption placements and that receive federal financial assistance under Title IV-E, Title IV-B, or any other federal program from delaying or denying a child's foster care or adoptive placement on the basis of the child's or the prospective foster or adoptive parent's race, color, or national origin. (3-15-22)
  - b. The Department prohibits entities that are involved in foster care or adoption placements and that receive federal financial assistance under Title IV-E, Title IV-B, or any other federal program, from denying to any individual the opportunity to become a foster or adoptive parent on the basis of the prospective foster or adoptive parent's or the child's race, color, or national origin; (3-15-22)
  - c. To remain eligible for federal assistance for their child welfare programs, the Department must diligently recruit foster and adoptive parents who reflect the racial and ethnic diversity of the children in the state who need foster and adoptive homes; (3-15-22)
  - d. A child's race, color, or national origin cannot be routinely considered as a relevant factor in assessing the child's best interests; (3-15-22)
  - e. Failure to comply with MEPA/IEP's prohibitions against discrimination is a violation of Title VI of



the Civil Rights Act of 1964; and (3-15-22)

f. Nothing in MEPA/IEP is to be construed to affect the application of the Indian Child Welfare Act of 1978. (3-15-22)

**12. Family Decision-Making and Plan Development.** (3-15-22)

a. A family plan will be completed within thirty (30) days of the date the case was opened. (3-15-22)

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. (3-15-22)

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. (3-15-22)

**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. (3-15-22)

a. 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. (3-15-22)

b. A compelling reason must be documented when a child's plan for permanency is not adoption, guardianship, or return home. (3-15-22)

c. 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. (3-15-22)

**14. ASFA Placement Preferences.** The following placement preferences will be considered in the order listed below when recommending and making permanency decisions: (3-15-22)

a. Return home if safe to do so; (3-15-22)

b. Adoption or legal guardianship by a relative or kin; (3-15-22)

c. Adoption or legal guardianship by non-relative; (3-15-22)

d. Another planned permanent living arrangement such as long-term foster care. (3-15-22)

**051. NOTICE REQUIREMENTS FOR ICWA.**

**01. Notice of Pending Proceedings -- Who is Notified.** When there is reason to believe that a child is an Indian child, the initial and any subsequent Notice of Pending Proceedings must be sent to the Indian child's parent(s), custodian(s), and tribe. Notices of Pending Proceedings must be sent to the ICWA Designated Agent for the child's tribe via Registered Mail, Return Receipt Requested. All Notices of Pending Proceedings must be received by the child's parent(s), Indian custodian(s) and tribe at least 10 (ten) days before the proceeding is scheduled to occur. Returned receipts are to be kept in the child's file and made available for review by the court. (3-15-22)

**02. Rights Under a Notice of Pending Proceedings.** Notices of Pending Proceedings must also include notice of the tribe's right to intervene; their right to twenty (20) additional days to prepare for the proceedings; the right to appointment of counsel if the parent(s) or Indian custodian(s) are indigent; and the right to examine all documents filed with the court upon which placement may be based. (3-15-22)

**03. Notice of Pending Proceedings--When Identity or Location of Parent(s), Indian Custodian(s), or Tribe is Unknown.** If the identity or location of the parent(s) or Indian custodian(s) or the tribe is unknown, the Notice of Pending Proceedings must be sent to the Secretary of the Interior by certified mail with a return receipt requested at the following address: Department of the Interior, Bureau of Indian Services, Division of Human Services, Code 450, Mail Stop, 1849 C Street N.W., Washington, D.C. 20240. (3-15-22)

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

**060. FAMILY CASE RECORDS.**

**01. Electronic and Physical Files.** The Department will maintain an electronic file and a physical file containing information on each family receiving services. The physical file will contain non-electronic documentation such as originals or original copies of all court orders, birth certificates, social security cards, and assessment information that is original outside the Department. (3-15-22)

**02. Storage of Records.** All physical family case records must 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. (3-15-22)

**a. Exception for Adoption Records.** Complete family case records involving adoptive placements must be forwarded to the Department's central adoption unit for permanent storage. (3-15-22)

**b. Exception for Case Records Involving an Indian Child.** A case record involving an Indian child must be available at any time at the request of an Indian child's tribe or the Secretary of the Interior. (3-15-22)

**061. -- 239. (RESERVED)**

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

**240. SIX-MONTH REVIEWS FOR CHILDREN IN ALTERNATE CARE PLACEMENT.**

When a judicial review does not occur at the end of a six (6) month period for any child in alternate care placement, the Department will conduct a 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. (3-15-22)

**01. Notice of Six-Month Review.** The parent(s) or legal guardian(s), foster parent(s) of a child, and any preadoptive parent(s) or relative(s) providing care for the child, are to be provided with notice of their right to be heard in the six-month review. In the case of an Indian child, the child's tribe and any Indian custodian must also be provided with notice. This must not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party to the review solely on the basis of the receipt of such notice. Participants have the right to be represented by the individual of their choice. (3-15-22)

**02. Procedure in the Six-Month Review.** The parties who received notice will be given the opportunity to participate in the case review. (3-15-22)

**03. Members of Six-Month Review Panel.** The six-month review panel 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 and receive instructions from the Department's Child and Family Services Program Manager or their designee, to enable them to understand the review process and their roles as participants. (3-15-22)

**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, each of the following must be addressed in a six-month review: (3-15-22)

**a. Determine the extent of compliance with the family services plan;** (3-15-22)

- b. Determine the extent of progress made toward alleviating or mitigating the causes necessitating the placement; (3-15-22)
- c. Review compliance with the Indian Child Welfare Act, when applicable; (3-15-22)
- d. Determine the safety of the child, the continuing need for and appropriateness of the child's placement; and (3-15-22)
- e. Project a date by which the child may be returned and safely maintained at home or placed for adoption, legal guardianship, or other permanent placement. (3-15-22)

**05. Recommendations and Conclusions of Six-Month Review Panel.** Following the six-month review, written conclusions and recommendations will be provided to all participants, subject to Department safeguards for confidentiality. The document containing the written conclusions and recommendations must also include appeal rights. (3-15-22)

**241. -- 399. (RESERVED)**

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

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

Upon approval of the regional Child and Family Services Program Manager or their designee, the Department may provide or purchase alternative care under the following conditions: (3-15-22)

- 01. Department Custody.** When the child is in the legal custody or guardianship of the Department; or (3-15-22)
- 02. Voluntary Placement.** Upon agreement with the parent(s) or legal guardian(s) or young adult under extended foster care when circumstances interfere with their provision of proper care or they are no longer able to maintain a child in their home and they can benefit from social work and treatment services. (3-15-22)
  - a. 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. (3-15-22)
  - b. 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) and the child must be returned to the parent or legal guardian upon their request. (3-15-22)
  - c. A contract between the Department and the service provider, if applicable, must also be in effect. (3-15-22)
  - d. 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 their current placement cannot be reimbursed by Title IV-E funds. (3-15-22)

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

The Department will 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 will 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 will 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 will make reasonable attempts to inform immediate family members of the way to become a placement resource. Alternate care placement will in all cases include consideration of: (3-15-22)

**01. Family Assessment.** The family assessment conducted in accordance with the provisions of the CFS Practice Standards. (3-15-22)

**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. (3-15-22)

**03. Family Involvement.** The involvement of the family in planning and selecting the placement. The Department will 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. (3-15-22)

**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. In the absence of good cause to the contrary, a preference must be given to placement with: (3-15-22)

**01. Extended Family.** A member of the Indian child's extended family; (3-15-22)

**02. Foster Home Approved by Tribe.** A foster home licensed or approved by the Indian child's tribe; (3-15-22)

**03. Licensed Indian Foster Home.** An Indian foster home licensed or approved by an authorized non-Indian licensing authority; or (3-15-22)

**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. (3-15-22)

**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 must be based on this date. All periodic reviews, permanency hearings, and time frames for termination of parental rights must be based on the date the child entered foster care. (3-15-22)

**404. FOSTER CARE GOAL.**

It is the goal of the Department that not more than twenty-five percent (25%) of foster youth will be in foster care longer than twenty-four (24) months. The Department will monitor this goal annually. (3-15-22)

**405. ALTERNATE CARE CASE MANAGEMENT.**

Case management must continue while the child is in alternate care and must ensure the following: (3-15-22)

**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. (3-15-22)

**02. Information for Alternate Care Provider.** The Department and the family have informed the alternate care provider of their roles and responsibilities in meeting the needs of the child including: (3-15-22)

**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; (3-15-22)

**b.** The name of the child's doctor; (3-15-22)

- c. The child's current functioning and behaviors; (3-15-22)
- d. A copy of the child's portion of the service plan including any visitation arrangements; (3-15-22)
- e. The case history of the child, including the reason the child came into foster care, the child's legal status, and the permanency goal for the child; (3-15-22)
- f. A history of the child's previous placements and reasons for placement changes, excluding information that identifies or reveals the location of any previous alternate care providers without their consent; (3-15-22)
- g. The child's cultural and racial identity; (3-15-22)
- h. Any educational, developmental, or special needs of the child; (3-15-22)
- i. The child's interest and talents; (3-15-22)
- j. The child's attachment to current caretakers; (3-15-22)
- k. The individualized and unique needs of the child; (3-15-22)
- l. Procedures to follow in case of emergency; and (3-15-22)
- m. Any additional information, that may be required by the terms of the contract with the alternate care provider. (3-15-22)

**03. Consent for Medical Care.** Parent(s) or legal guardian(s) have signed 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. (3-15-22)

**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. (3-15-22)

**05. Contact with Child.** The family, the family services worker, and the alternate care provider have established a schedule for frequent and regular visits with the child by the family and by the family services worker or designee. (3-15-22)

a. Face-to-face contact with a child by the assigned 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. Face-to-face contact may be made in settings other than where the child resides as long as contact between the assigned family services worker and the child occurs where the child resides a minimum of once every sixty (60) days. (7-1-24)

b. The Department will have strategies in place to detect abuse, neglect, or abandonment of children in alternate care. (3-15-22)

c. 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. (3-15-22)

**06. Discharge Planning.** Planning for discharge from alternate care are 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. (3-15-22)

**07. Transition Planning.** Planning for discharge from alternate care into a permanent placement are

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. (3-15-22)

**08. Financial and Support Services.** As part of the discharge planning, Departmental resources are coordinated to expedite access to Department financial and medical assistance and community support services. (3-15-22)

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

**422. ALTERNATE CARE PLANNING.**

The elements of alternate care planning are mandated by the provisions of Title IV-E, Sections 471(a)(16), 475(1), and 475(5)(A) and (D) of the Social Security Act. (3-15-22)

**01. Alternate Care Plan Required.** Each child receiving alternate care under the supervision of the state must have a standardized written alternate care plan. (3-15-22)

**a.** The purpose of the alternate care plan is to facilitate the safe return of the child to their own home as expeditiously as possible or to make other permanent arrangements for the child if such return is not feasible. (3-15-22)

**b.** The alternate care plan must be included as part of the family service plan. (3-15-22)

**02. Written Alternate Care Plan.** The Department must complete a written alternate care plan within thirty (30) days after a child has been placed in alternate care and at least every six (6) months thereafter. A copy of the alternate care plan will be provided to the child's parent, legal guardian, foster parent, Indian custodian, tribe, and to the child if they are over twelve (12) years of age. (3-15-22)

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

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

**425. TITLE IV-E ELIGIBILITY.**

The state will claim Title IV-E funding for a foster child who meets the following criteria: (3-15-22)

**01. Physical or Constructive Removal of the Child.** The child was physically or constructively removed from the home: (3-15-22)

**a.** Under a voluntary placement agreement; or (3-15-22)

**b.** As the result of a judicial determination that: (3-15-22)

**i.** Remaining in the home would be contrary to the child's welfare; or (3-15-22)

**ii.** Placement in foster care would be in the best interest of the child. (3-15-22)

**c.** The determination that a situation is contrary to the child's welfare must be made in the first court ruling that sanctions, even temporarily, the removal of a child from the home. (3-15-22)

**02. Child's Residence.** The child has been living in the home of a parent or other relative specified at 45 CFR 233.90(c)(1)(v) either in the month of, or within six (6) months prior to the month: (3-15-22)

**a.** Removal court proceedings were initiated; or (3-15-22)

**b.** The voluntary placement agreement was signed. (3-15-22)

**03. AFDC Eligibility.** The child was AFDC (Aid to Families with Dependent Children) eligible in the

removal home during the month of the initiation of court proceedings that initiated the removal or the month the voluntary placement agreement is signed. AFDC eligibility is based upon the standards found in the State's IV-A Plan on July 16, 1996. (3-15-22)

**04. "Removal From" and "Living With" Requirements.** The "removal from" (01. of this rule) and "living with" (Subsection 425.02. of this rule) requirements must be satisfied by the same specified relative who meets AFDC eligibility (Subsection 425.03. of this rule). (3-15-22)

**05. Judicial Determination.** A judicial determination was obtained regarding reasonable efforts to prevent a child's removal from the home no later than sixty (60) days from the child's foster care entry date. When there is a judicial determination of "aggravated circumstances," the court order must state that no reasonable efforts to reunify the family are required. (3-15-22)

**06. Agency with Placement Care and Responsibility.** The IV-E agency, or another public agency or Tribe that has a plan approved under 42 U.S.C. 671 in accordance with 42 U.S.C. 679c with which the Title IV-E agency has a written agreement in effect, has placement and care responsibility. (3-15-22)

**07. Child in Foster Care or Childcare Institution.** The child is in a fully licensed or approved foster family home, or childcare institution, or supervised independent living situation for young adults in extended foster care. (3-15-22)

**08. Compliance with Safety Requirements.** Compliance with the safety requirements was documented for the prospective foster family home or childcare institution. (3-15-22)

**09. Child's Age.** The child is under the age of eighteen (18), or up to age twenty-one (21) if they meet the criteria under 42 U.S.C. 675(8)(B)(iv). (3-15-22)

**10. Child's Citizenship Status.** The child is a US citizen or qualified immigrant under Sections 403, 431, and 432 of the Personal Responsibility Work Opportunity Reconciliation Act (P.L. 104-193). (3-15-22)

**426. (RESERVED)**

**427. DETERMINATION OF ELIGIBILITY FOR TITLE IV-E.**

The family services workers must submit an application to the Child Welfare Funding Team to evaluate for Title IV-E eligibility. (3-15-22)

**428. CUSTODY AND PLACEMENT.**

**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. However, in these instances, a child is ineligible for Title IV-E until the placement is licensed. (3-15-22)

**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. (3-15-22)

**429. EFFECTIVE DATE.**

Claims for Title IV-E maintenance may begin as early as the first day of placement in the month in which all initial Title IV-E eligibility factors are met. A child cannot receive SSI and Title IV-E foster maintenance payments during the same time period. (3-15-22)

**430. ONGOING ELIGIBILITY.**

To continue eligibility for Title IV-E, a child must meet the following conditions: (3-15-22)

**01. Child's Age.** The child is under the age of eighteen (18), or up to age twenty-one (21) if they meet the criteria under 42 U.S.C. 675(8)(B)(iv). (3-15-22)

**02. Department Custody.** The child remains 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. (3-15-22)

**03. Child's Residence.** The child continues to live in a fully licensed or approved foster family home, or childcare institution, or on a court-ordered home visit. (3-15-22)

**04. Redetermination.** A redetermination is used for a child who: (3-15-22)

**a.** Left foster care; (3-15-22)

**b.** Was placed in a Title IV-E ineligible living situation such as: unlicensed placement, a hospital, or a detention center; (3-15-22)

**c.** Exceeded one hundred eighty (180) days in a voluntary placement agreement in which there was no judicial determination of "best interests." The child's Title IV-E eligibility ceases on the 181st day; and (3-15-22)

**d.** Is on a home visit that exceeds the time specified in the court order signed by the Judge without a new judicial determination granting an extension. (3-15-22)

**05. Annual Redetermination.** Annual redetermination is required to assure that the court has determined that the Department has made reasonable efforts to finalize a permanency plan for the child within twelve (12) months of the date the child is considered to have entered foster care and at least once every twelve (12) months thereafter while the child is in foster care. (3-15-22)

**431. (RESERVED)**

**432. TITLE XIX FOSTER CHILD.**

For Title XIX Medicaid eligibility for a foster child, please refer to IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children," Section 536. (3-15-22)

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

On behalf of the child and with the assistance of CWFT staff, family services workers are required to identify and apply for income or benefits from (one (1) or) every available source including Social Security, tribal benefits, or estates of deceased parents. The address of the payee must be DHW-FACS-CWFT, 450 West State Street, P. O. Box 83720 Boise, ID 83720-0036. (3-15-22)

**434. FORWARDING OF BENEFITS.**

**01. Home Visit.** 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 must be notified by a family services worker giving the name and address of the person in order to discontinue accrual of child support owed to the State. (3-15-22)

**02. Return to Foster Care.** If the child returns to foster care, the Department's Child Support Unit must be notified immediately of the correct payee. (3-15-22)

**435. (RESERVED)**

**436. PARENTAL 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 in alternate care. (3-15-22)



**01. Notice of Parental Responsibility.** The Department will provide the parents(s) with written notification of their responsibility to contribute toward the cost of their child's support, treatment, and care, including clothing, medical, incidental, and educational costs. (3-15-22)

**02. Financial Arrangements with Parent(s).** Parent(s) are responsible to reimburse the Department for the costs of alternate care when their child is placed in alternate care in accordance with a court order or voluntary placement agreement. (3-15-22)

**a.** The amount of support is based on the parents' income, the costs of care for the child, and any unique circumstances affecting the parents' ability to pay. (3-15-22)

**b.** Every parent is expected to contribute to the cost of their child's care, but no parent will be asked to pay more than the actual cost of care, including clothing, medical, incidental and educational costs. The cost of room and board must be paid by the parent(s) to the Department, and the Department will in turn reimburse the alternate care providers. (3-15-22)

**437. ACCOUNTING AND REPORTING.**

The Department's Division of Family and Community Services, Child Welfare Funding Team must account for the receipt of funds and develop reports showing how much money has been received and how it has been utilized. (3-15-22)

**438. SUPPORT AGREEMENT FOR VOLUNTARY PLACEMENTS.**

If the placement is voluntary, the parent(s) must sign an agreement that specifies the amount of support to be paid, when it is to be paid to the payee, and the address to which it is to be paid. (3-15-22)

**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) prior to the custody or commitment hearing, the Department's report to the Court will indicate the necessity to hold a support hearing. (3-15-22)

**440. INSURANCE COVERAGE.**

The parent(s) or legal guardian(s) must inform the Department of all insurance policies covering the child, including names of carriers, and policy or subscriber numbers. If medical, health, and dental insurance coverage are available for the child, the parent(s) must acquire and maintain such insurance. (3-15-22)

**441. REFERRAL TO CHILD SUPPORT SERVICES.**

The Department will refer the parent(s) to the Bureau of Child Support Services for support payment arrangements. (3-15-22)

**01. Assignment of Child Support.** The Department through the Bureau of Child Support Services will 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 must request to be named payee for all funds for placements extending over thirty (30) days. (3-15-22)

**02. Collection of Child Support.** The Department must take action to collect any child support ordered in a divorce decree. (3-15-22)

**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 will receive a medical card each month. (3-15-22)

**443. EPSDT SCREENING.**

Children in alternate care will receive the Early Periodic Screening, Diagnosis and Treatment (EPSDT) services

allowable under Medicaid. Those children already receiving Medicaid at the time of placement will be screened within thirty (30) days after placement. Children not receiving Medicaid at the time of placement will receive a screening within thirty (30) days from the date Medicaid eligibility is established. (3-15-22)

**444. MEDICAL EMERGENCIES.**

In case of serious illness, the alternate care provider must 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. (3-15-22)

**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. (3-15-22)

**01. Costs Paid by Medicaid.** If dental care not included in the state medical assistance program is recommended, a request for payment must be submitted to the state Medicaid dental consultant. (3-15-22)

**02. Emergencies.** For children in shelter care, emergency dental services will be provided for and paid for by the Department, if there are no other financial resources available. (3-15-22)

**446. COSTS OF PRESCRIPTION DRUGS.**

The Department will purchase prescribed drugs, at the Medicaid rate, for a child in alternate care through participating pharmacists, in excess of the Medicaid monthly maximum. (3-15-22)

**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. (3-15-22)

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

**451. DRIVERS' TRAINING, DRIVERS' LICENSES, AND PERMITS 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 Child and Family 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 Child and Family 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. (3-15-22)

**01. Payments by Department.** Subject to existing appropriations, the Department may make payments for driver's training, driver's license, and permits for a child in the Department's legal custody when driver's training or obtaining a driver's license or permit is part of the child's Independent Living Plan. In addition, subject to existing appropriations, the Department may reimburse a foster parent, licensed by the Department, for the cost of procuring owner's or operator's insurance listing a child residing in their home as a named insured with respect to the operation of a motor vehicle subject to the limits exclusive of interest and costs with respect to each motor vehicle as provided in Section 49-117, Idaho Code. (3-15-22)

**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. (3-15-22)

**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, "Child Care Licensing," unless foster care placement of an Indian child is made with a foster home licensed or approved by the Indian child's tribe, or an institution for children approved by an Indian tribe or operated by an Indian organization. (3-15-22)

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

Facilities operated by the State and providing care for children under these rules must meet the standards for child care licensure. (3-15-22)

**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. (3-15-22)

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

Monthly payments for care provided by family alternate care providers are:

Family Alternate Care Payments - Table 483				
Ages	0-5	6-12	13-17	18-20
Monthly Room and Board	\$632	\$702	\$759	\$876

(4-6-23)

**01. Gifts.** An additional thirty dollars (\$30) for Christmas gifts and twenty dollars (\$20) for birthday gifts will be paid in the appropriate months. (3-15-22)

**02. Clothing.** Costs for clothing will 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. (3-15-22)

**03. School Fees.** School fees due upon enrollment will be paid directly to the school or to the alternate care providers, based upon the Department's determination of the child's needs. (3-15-22)

**484. ADDITIONAL PAYMENTS TO FAMILY ALTERNATE CARE PROVIDERS.**

For those children who require additional care above room, board, shelter, daily supervision, school supplies, personal incidentals, the Department may pay the family alternate care provider an additional amount to the amount paid under Section 483 of these rules. This family alternate care rate is based upon a ongoing assessment of the child's circumstances that necessitate special rates as well as the care provider's ability, activities, and involvement in addressing those special needs. Additional payment will be made as follows: (3-15-22)

**01. Lowest Level of Need.** Ninety dollars (\$90) per month for a child requiring a mild degree of care for documented conditions including: (3-15-22)

- a. Chronic medical problems; (3-15-22)
- b. Frequent, time-consuming transportation needs; (3-15-22)
- c. Behaviors requiring extra supervision and control; and (3-15-22)
- d. Need for preparation for independent living. (3-15-22)

**02. Moderate Level of Need.** One hundred fifty dollars (\$150) per month for a child requiring a moderate degree of care for documented conditions including: (3-15-22)

- a. Ongoing major medical problems; (3-15-22)
- b. Behaviors that require immediate action or control; and (3-15-22)

- c. Alcohol or other substance use disorder. (3-15-22)

**03. Highest Level of Need.** Two hundred forty dollars (\$240) per month for a child requiring an extraordinary degree of care for documented conditions including: (3-15-22)

- a. Severe emotional or behavioral disturbance; (3-15-22)
- b. Severe developmental disability; and (3-15-22)
- c. Severe physical disability such as quadriplegia. (3-15-22)

**04. Reportable Income.** Additional payments for more than ten (10) qualified children received during any calendar year must be reported as income to the Internal Revenue Service. (3-15-22)

**05. Crisis Level of Need.** The director or designee may approve enhanced rates for foster parents when there are insufficient foster homes available to meet the needs of children needing placement including sibling groups. (4-17-24)T

**485. TREATMENT FOSTER CARE.**

A family home setting in which treatment foster parents provide twenty-four (24) hour room and board as well as therapeutic services and a high level of supervision. Services provided in treatment foster care are at a more intense level than provided in foster care and at a lower level than provided in residential care. Services may include the following: participation in the development and implementation of the child's treatment plan, behavior modification, community supports, crisis intervention, documentation of services and the child's behavior, participation as a member of a multi-disciplinary team, and transportation. Placement into a treatment foster home for children in the custody of the Department under the purview of the Child Protective Act, is based on the documented needs of the child, the inability of less restrictive settings to meet the child's needs, and the clinical judgement of the Department. (3-15-22)

**01. Qualifications.** Prior to being considered for designation and reimbursement as a treatment foster parent, each prospective treatment foster parent must accomplish the following: (3-15-22)

- a. Meet all foster family licensure requirements as set forth in IDAPA 16.06.02, "Child Care Licensing"; (3-15-22)
- b. Complete Department-approved treatment foster care initial training; and (3-15-22)
- c. Provide a minimum of two (2) references in addition to those provided to be licensed to provide foster care. The additional references must be from individuals who have worked with the prospective treatment foster parent. The additional references must verify that the prospective treatment foster parent has: (3-15-22)
  - i. Training related to, or experience working with, children or youth with mental illness or behavior disorders; and (3-15-22)
  - ii. Demonstrated cooperation and a positive working relationship with families and providers of child welfare or mental health services. (3-15-22)

**02. Continuing Education.** Following designation as a treatment foster home, each treatment foster home parent must complete fourteen (14) hours of additional training per year as specified in an agreement developed between the treatment foster parents and the Department. (3-15-22)

**03. Availability.** At least one (1) treatment foster parent, in each treatment family home, must be available twenty-four (24) hours a day, seven (7) days a week to respond to the needs of the foster child. (3-15-22)

**04. Payment.** The Department will pay treatment foster parents up to one thousand eight hundred (\$1,800) dollars per month, per child, which includes the monthly payment rate specified in Sections 483 and 484 of these rules. The payment will be made to treatment foster parents in accordance with a contract with the Department.

The purpose of the contract is to make clear that the treatment foster parents must fulfill the requirements for treatment foster parents under the child's treatment plan referenced in Subsection 485.06 of this rule. (3-15-22)

**05. Payment to Contractors.** The Department may also provide treatment foster care through a contract with an agency that is a private provider of treatment foster care. The Department will specify the rate of payment in the contract with the agency. (3-15-22)

**06. Treatment Plan.** The treatment foster parent(s) must implement the portions of the Department-approved treatment plan for which they are designated as responsible, for each child in their care. This plan is incorporated as part of the family services plan identified in Section 011.05 of these rules. (3-15-22)

**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. (3-15-22)

**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 must be prior authorized by the Child and Family Services Program Manager or designee. (3-15-22)

**02. Placement.** Placement is based on the documented service needs of each child and the ability of the group care provider to meet those needs. (3-15-22)

**03. Payment -- Group Foster Care.** Payment will be in accordance with the contract authorized by the regional director or division administrator, based on the needs of the children being placed and the services to be provided. (3-15-22)

**487. RESIDENTIAL CARE FACILITIES.**

Placement into a residential care facility for children with a severe emotional or behavioral problems is based on the documented needs of the child and the inability of less restrictive settings to meet the child's needs. (3-15-22)

**01. Referral.** Any referral of a child to a residential care facility where the Department would be making full or partial payment must be prior authorized by the Child Services and Family Program Manager or designee. (3-15-22)

**02. Payment.** When care is purchased from private providers, payment must be made in accordance with a contract authorized by the Child Services and Family 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 will be arranged in cooperation with Department fiscal officers. (3-15-22)

**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. (3-15-22)

**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, neglect, or abandonment. 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. (3-15-22)

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

Professionals and other persons identified in Section 16-1605, Idaho Code, have a responsibility to report abuse, neglect, or abandonment and are provided protection for reporters. (3-15-22)

**01. Ministers.** Duly ordained ministers of religion are exempt from reporting child abuse, neglect, or abandonment if: (3-15-22)

**a.** The church qualifies as tax-exempt under 26. U.S.C. 501(c)(3); (3-15-22)

**b.** The confession or confidential communication was made directly to the duly ordained minister of religion; and (3-15-22)

**c.** The confession was made in the manner and context that 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. (3-15-22)

**02. Health and Welfare Employees.** All Department of Health and Welfare personnel are responsible for recognizing and immediately reporting to Child and Family Services or to law enforcement any concern regarding abuse, neglect, or abandonment of a child or children. Failure to report as required by Section 16-1605, Idaho Code, is a misdemeanor. (3-15-22)

**552. REPORTING SYSTEM.**

Each region of the Department maintains 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 will 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. (3-15-22)

**553. ASSIGNING REPORTS FOR SAFETY ASSESSMENT.**

The Department must assign all reports of possible abuse, neglect, or abandonment of children for safety assessment, unless the field office has knowledge or information that discredits the report beyond a reasonable doubt. (3-15-22)

**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 Child and Family Services Supervisor. (3-15-22)

**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. (3-15-22)

**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 that involve concerns of abuse, neglect, or abandonment. (3-15-22)

**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, neglect, or abandonment 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.

(3-15-22)

**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.

(3-15-22)

**05. Disclosure of Information to Professionals.** The Department has the discretion to disclose, on a need-to-know basis, minimally necessary information to individuals who are professionally involved in the ongoing care of the child who is the subject of a report of abuse, neglect, or abandonment. This includes information that the professional will need to know in order to fulfill their role in maintaining the child's safety and well-being. This provision applies to:

(3-15-22)

**a.** Physicians, residents on a hospital staff, interns, and nurses;

(3-15-22)

**b.** School teachers, school staff, and day care personnel; and

(3-15-22)

**c.** Mental health professionals, including psychologists, counselors, marriage and family therapists, and social workers.

(3-15-22)

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

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

(3-15-22)

**556. REPORTS INVOLVING INDIAN CHILDREN.**

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

(3-15-22)

**557. REPORTS INVOLVING MILITARY FAMILIES.**

Reports of possible child abuse, neglect, or abandonment involving a military family must 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, neglect, or abandonment of a child on a military reservation falls under federal jurisdiction.

(3-15-22)

**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.

(3-15-22)

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

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

(3-15-22)

**01. Assessment of a Child.** The family services worker must make an assessment of every child of concern. When the child is interviewed as part of a safety and comprehensive assessment, the interview of a child concerning a child protection report must be conducted:

(3-15-22)

**a.** In a manner that protects all children involved from undergoing any unnecessary traumatic experience, including multiple interviews;

(3-15-22)

b. By a professional with specialized training in using techniques that consider the natural communication modes and developmental stages of children; and (3-15-22)

c. In a neutral, non-threatening environment, such as a specially equipped interview room, if available. (3-15-22)

**02. Assessment of the Family.** The family services worker conducting the interview must: (3-15-22)

a. Immediately notify the parent(s) or legal guardian(s) of the purpose and nature of the assessment. (3-15-22)

b. Provide at the initial contact the name and work phone numbers of the family services worker and their supervisor to ensure the family has a contact for questions and concerns that may arise following the visit; (3-15-22)

c. Inquire if the family is Indian, or has Indian heritage, for the purposes of ICWA; (3-15-22)

d. Interview siblings who are identified as being at risk; and (3-15-22)

e. Not divulge the name of the person making the report of child abuse or neglect. (3-15-22)

**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. (3-15-22)

**04. Completion of a Comprehensive Assessment.** A Safety Assessment will be completed on each referral assigned for assessment of abuse or neglect, or both. When safety threats are identified in the safety assessment and the case remains open for services, a comprehensive assessment must be completed. (3-15-22)

**05. Role of Law Enforcement.** Section 16-1617, 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: (3-15-22)

a. Interviewing the alleged perpetrator; (3-15-22)

b. Removing the alleged perpetrator from the child's home in accordance with Section 16-1608(b), Idaho Code, the "Domestic Violence Act"; and (3-15-22)

c. Taking a child into custody in accordance with Section 16-1608, Idaho Code, where a child is endangered and prompt removal from their surroundings is necessary to prevent serious physical or mental injury. (3-15-22)

**06. Notification of the Person Who Made the Referral.** The Department must notify the person who made the child protection referral when the safety assessment has been completed. (3-15-22)

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

Within five (5) days following completion of safety assessments, the Department will determine whether the reports are substantiated or unsubstantiated. All persons who are the subject of a child protection safety assessment will be notified of the disposition of the assessment. (3-15-22)

**01. Substantiated.** Child abuse, neglect, or abandonment reports are substantiated by one (1) or more of the following: (3-15-22)

a. Witnessed by a family services worker, as defined in Section 011 of these rules; (3-15-22)



**b.** A court determines, in an adjudicatory hearing, that a child comes within the jurisdiction of the Child Protective Act, Title 16, Chapter 16, Idaho Code; (3-15-22)

**c.** A confession; (3-15-22)

**d.** Corroborated by physical or medical evidence; or (3-15-22)

**e.** Established by evidence that it is more likely than not that abuse, neglect, or abandonment occurred. (3-15-22)

**02. Unsubstantiated.** Child abuse, neglect, or abandonment 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 safety assessment was due to: (3-15-22)

**a.** Insufficient evidence; or (3-15-22)

**b.** An erroneous report. (3-15-22)

**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, neglect, or abandonment 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 safety assessments conducted by the Department after October 1, 2007. (3-15-22)

**562. CONFIDENTIALITY OF THE CHILD PROTECTION CENTRAL REGISTRY AND REQUESTS TO CHECK THE REGISTRY.**

**01. Confidentiality of 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 on whom a criminal history and background check is being conducted, unless otherwise required by federal or state law. No information is released regarding the severity or type of child abuse, neglect, or abandonment. (3-15-22)

**02. Child Protection Central Registry Check Fee.** The fee for requesting a name-based check of the Child Protection Central Registry is twenty (\$20) dollars. The request must be accompanied with a signed written consent by the individual whose name is being checked. (3-15-22)

**563. LEVELS OF RISK ON THE CHILD PROTECTION CENTRAL REGISTRY.**

When an incident of abuse, neglect, or abandonment has been substantiated, a level of risk is assigned to the incident. The level of risk is determined by the severity and type of the abuse, neglect, or abandonment 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 Three. (3-15-22)

**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, neglect, or abandonment has been substantiated for any of the following will remain permanently on the Child Protection Central Registry at Level One. (3-15-22)

**a.** Sexual Abuse as defined in Sections 16-1602(1)(b) and 18-1506, Idaho Code; (3-15-22)

**b.** Sexual Exploitation as defined in Sections 18-1507 and 18-1507A, Idaho Code; (3-15-22)

**c.** Physical abuse as described in Section 16-1602(1)(a), Idaho Code, that causes life-threatening,

disabling, or disfiguring injury or damage; (3-15-22)

**d.** Neglect as described in Section 16-1602(31), Idaho Code, that results in life-threatening, disabling, or disfiguring injury or damage; (3-15-22)

**e.** Abandonment as described in Section 16-1602(2), Idaho Code, that results in life-threatening, disabling, or disfiguring injury or damage; (3-15-22)

**f.** Death of a child; (3-15-22)

**g.** Torture of a child as described in Section 18-4001, Idaho Code; (3-15-22)

**h.** Aggravated Circumstances as described in Section 16-1602(6), Idaho Code; or (3-15-22)

**i.** Occurrence of two (2) or more separate, substantiated incidents of abuse, neglect, or abandonment, each of which falls under the circumstances listed under Subsection 563.02 of this rule. (3-15-22)

**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 their name be removed from the Child Protection Central Registry in accordance with Section 566 of these rules. Names of individuals for whom an incident of abuse, neglect, or abandonment has been substantiated for any of the following will be given the designation of Level Two. (3-15-22)

**a.** Prenatal use of any controlled substance as defined under Section 37-2701(e), Idaho Code, except as prescribed by a medical professional; (3-15-22)

**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; (3-15-22)

**c.** Child exposed to: (3-15-22)

**i.** Drug paraphernalia, as defined in Section 37-2701(n), Idaho Code; (3-15-22)

**ii.** Manufacture of controlled substances, as defined under Section 37-2701(e), Idaho Code, and Section 37-2701(s), Idaho Code; or (3-15-22)

**iii.** Chemical components used in the manufacture of controlled substances, as defined under Section 37-2701(e), Idaho Code. (3-15-22)

**d.** Failure to thrive caused by abuse, neglect, or abandonment, as established by medical evidence; (3-15-22)

**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(31), Idaho Code, that results in neither disabling nor disfiguring injury or damage, but may require medical or other treatment; (3-15-22)

**f.** The restraint or confinement of a child that poses a substantial risk of causing life-threatening, disabling, or disfiguring injury or damage; (3-15-22)

**g.** Medical neglect as described in Section 16-1602(31), Idaho Code, that poses a substantial risk of resulting in life-threatening, disabling, or disfiguring injury or damage; (3-15-22)

**h.** Malnutrition as established by medical evidence; or (3-15-22)

**i.** Occurrence of two (2) or more separate, substantiated incidents of abuse, neglect, or abandonment,

each of which falls under the circumstances listed under Subsection 563.03 of this rule. (3-15-22)

**03. Child Protection Level Three.** An individual with a Level Three designation has been determined to pose a mild to medium risk of harm to the health, safety, or well-being of a child. The name of that individual 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 their name be removed from the Child Protection Central Registry in accordance with Section 566 of these rules. Names of individuals for whom an incident of abuse, neglect, or abandonment has been substantiated for any of the following are given the designation of Level Three. (3-15-22)

**a.** Lack of supervision; (3-15-22)  
**b.** Failure to protect from abuse, neglect, or abandonment as described in Section 16-1602, Idaho Code; (3-15-22)

**c.** Failure to discharge parental responsibilities described under Section 16-1602(31), Idaho Code; or (3-15-22)

**d.** Physical abuse as described in Section 16-1602(1)(a), Idaho Code, or neglect as described in Section 16-1602(31), Idaho Code, that causes minor injuries or damage that does not require medical treatment. (3-15-22)

#### **564. NOTIFICATION OF A SUBSTANTIATED INCIDENT OF ABUSE, NEGLECT, OR ABANDONMENT, AND RELATED ADMINISTRATIVE REVIEW AND CONTESTED CASE APPEAL RIGHTS.**

**01. Notification of Substantiated Incident.** Prior to placement on the Child Protection Central Registry, the Department will notify by certified mail, return receipt requested, each individual for whom an incident of abuse, neglect, or abandonment has been substantiated. The individual has twenty-eight (28) days from the date on the notification to file a request for an administrative review. Failure to request a review will result in the individual's name being entered on the Child Protection Central Registry without further right for appeal. The Department's written notice will state: (4-17-24)T

- a.** The risk level assigned to the incident; (3-15-22)
- b.** The basis for the Department's decision; (3-15-22)
- c.** The individual's right to request an administrative review by the Department's Family and Community Services (FACS) Division Administrator of the Department's decision; and (3-15-22)
- d.** The Department's contact information. (3-15-22)

**02. Administrative Review Requested.** If the individual requests an administrative review by the FACS Division Administrator within twenty-eight (28) days from the date on the notification, the appeal process will begin. The individual will receive redacted documents regarding the incident that is being appealed. The individual will have fourteen (14) days to submit additional documentation. At the end of the fourteen-day period, the incident will be reviewed by the FACS Division Administrator and a decision will be rendered to either affirm, reverse, or modify, the decision to substantiate the incident of abuse, neglect, or abandonment. The Department will notify the individual of the FACS Division Administrator's decision by mail. If the administrative review affirms or modifies the decision to substantiate, failure to timely request a contested case appeal will result in the individual's name being entered on the Child Protection Central Registry without further right for appeal. (4-17-24)T

**03. Reversal of Decision to Substantiate.** When the FACS Division Administrator completes the administrative review and reverses the decision to substantiate the incident of abuse, neglect, or abandonment, and determines that the incident is not substantiated, then no further action is required by the individual. The individual's name will not be placed on the Child Protection Central Registry. (3-15-22)

**04. Contested Case Appeal.** When the FACS Division Administrator completes the administrative review and affirms the decision to substantiate the incident of abuse, neglect, or abandonment, the individual will be notified by mail that the individual has twenty-eight (28) days to continue the appeal process and will be informed of: (4-17-24)T

- a.** The basis for the Department's decision; (3-15-22)
- b.** The procedures for filing a contested case appeal; (4-17-24)T
- c.** The procedures for filing a petition for removal from the Child Protection Central Registry after the applicable minimum time has passed under Section 566 of these rules; (4-17-24)T
- d.** The Department's contact information; and (4-17-24)T
- e.** That failure to respond at any point in the appeal process will end the appeal process and the individual's name will automatically be entered on the Child Protection Central Registry without further notice or right to appeal. (4-17-24)T

**05. Child Protection Central Registry.** Following a decision by the hearing officer to affirm the decision to substantiate, an individual's name will be placed on the Child Protection Central Registry. (4-17-24)T

**565. (RESERVED)**

**566. PETITION FOR REMOVAL OF AN INDIVIDUAL'S NAME FROM THE CHILD PROTECTION CENTRAL REGISTRY.**

Any individual whose name is on the Child Protection Central Registry and whose required minimum time on the registry has elapsed, may petition the Department to remove their name from the Registry. If not previously assigned a risk level, the petitioner will be assigned a child protection risk level in accordance with the criteria under Section 563 of these rules. An individual whose name appears with a Level One designation on the Child Protection Central Registry is not eligible to petition for removal. (4-17-24)T

**01. Petition for Removal From the Child Protection Central Registry.** Any individual whose name appears on the Child Protection Central Registry with a designation of either Level Two or Level Three, may petition to have their name removed from the Child Protection Central Registry after the minimum period of time has elapsed for the applicable level. 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. (3-15-22)

**02. Criteria for Granting Petition for Removal From the Child Protection Central Registry.** The petition for removal from the Child Protection Central Registry will be granted if: (3-15-22)

- 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, neglect, or abandonment in Idaho; and (3-15-22)
- b.** There are no convictions, adjudications, or withheld judgments for any of the crimes listed under Subsection 566.03 of this rule: (3-15-22)
  - i.** On Idaho's central repository of criminal history records as established and maintained by the Idaho State Police under Title 67, Chapter 30, Idaho Code; or (3-15-22)
  - ii.** On the criminal history repository of other states in which the petitioner has resided since the last substantiated report of abuse, neglect, or abandonment in Idaho. (3-15-22)

**03. Criminal History Checks.** It is the responsibility of the petitioner to request, pay for, and obtain the criminal history checks and submit them to the Department. (3-15-22)

**a.** 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: (3-15-22)

i. Physical Assault; (3-15-22)

ii. Battery; or (3-15-22)

iii. A drug-related offense. (3-15-22)

**b.** The Department will not remove a petitioner from the Child Protection Central Registry if a criminal history check reveals any of the following: (3-15-22)

i. Child abuse or neglect; (3-15-22)

ii. Spousal abuse; (3-15-22)

iii. A crime against children, including child pornography; or (3-15-22)

iv. A crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery. (3-15-22)

**04. Granting or Denying Removal From the Child Protection Central Registry.** 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. (3-15-22)

**05. Appeal of a Denial of Removal From the Child Protection Central Registry.** The individual may appeal the denial of removal of their name from the Child Protection Central Registry under IDAPA 16.05.03, "Contested Cases Proceedings and Declaratory Ruling," Section 101. (3-15-22)

**567. "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. (3-15-22)

**568. COURT-ORDERED CHILD PROTECTION SAFETY 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/safety assessment be conducted by the Department. Court orders for preliminary child protective safety 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 safety assessment and consult with the court promptly if there are any obstacles preventing its completion. Immediately upon completing the report, the Department must make a written report to the court. (3-15-22)

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

If any incident of child abuse, neglect, or abandonment is substantiated through a 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. (3-15-22)

**570. COOPERATION WITH LAW ENFORCEMENT.**

The Department will cooperate with law enforcement personnel in their handling of criminal investigations and the filing of criminal proceedings. (3-15-22)

**571. 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 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.

(3-15-22)

**01. Requests From Private Attorney.** If a parent's attorney requests a 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.

(3-15-22)

**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.

(3-15-22)

**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).

(3-15-22)

**04. Department Clients.** If the family is or has been a client of the Department, disclosure of information must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records."

(3-15-22)

**572. -- 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 will consider whether termination of parental rights is in the best interests of the child. The Department must 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.

(3-15-22)

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

In addition to the core services provided under these rules, the Department must assure provision of the following:

(3-15-22)

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

(3-15-22)

**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.

(3-15-22)

**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.

(3-15-22)

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

(3-15-22)

**05. Preparation for Placement.** Preparation of the child by an assigned family services worker who will assist the child in addressing anticipated grief and loss due to separation from their parents and assisting the child with the transition into an adoptive home.

(7-1-24)

**06. Technical Assistance.** Assistance in completing the legal adoption, including compliance with the Indian Child Welfare Act.

(3-15-22)

**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 their 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.

(3-15-22)

**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 Child and Family Services Program Manager to reduce the supervisory period to a minimum of three (3) months.

(3-15-22)

**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."

(3-15-22)

**702. CONDITIONS FOR GUARDIANSHIP ASSISTANCE.**

The following conditions must be met for a child to be eligible for federally-funded or state-funded guardianship assistance.

(3-15-22)

**01. Assessment of Suitability.** The Department or its contractor will determine the suitability of an individual to become a legal guardian for a specific child or sibling group through a guardianship study.

(3-15-22)

**02. Eligibility for Guardianship Assistance.** The Department will determine eligibility for guardianship assistance for each child placed in the legal custody of the Department prior to the finalization of the guardianship. The child will first be considered for eligibility for a federally-funded subsidy. Should the child be found ineligible for a federally-funded subsidy, the child will then be considered for a state-funded subsidy.

(3-15-22)

**03. Guardianship and Foster Care Licensure.** To receive guardianship assistance, a potential legal guardian must apply for and receive a foster care license.

(3-15-22)

**04. Guardianship Assistance Agreements and Payments.** The Department and the prospective legal guardian must enter into a written agreement prior to the finalization of the guardianship. Benefits may include both a monthly cash payment and Medicaid benefits. The cash payment may not exceed the published foster care rate a child would receive if living in family foster care in Idaho. Eligibility for guardianship assistance is based on the child's needs. No means test may be applied to the prospective legal guardian family's income or resources in a determination of eligibility. The Department will provide the prospective legal guardian with a copy of the agreement. All Guardianship Assistance Agreements must contain the following:

(3-15-22)

**a.** The amount and manner in which the guardianship assistance payment will be provided to the prospective legal guardian;

(3-15-22)

**b.** The manner in which the payment may be adjusted periodically in consultation with the legal guardian, based on the circumstances of the legal guardian and the needs of the child;

(3-15-22)

**c.** Any additional services and assistance for which the child and legal guardian will be eligible under the agreement;

(3-15-22)

**d.** The procedure by which the legal guardian may apply for additional services;

(3-15-22)

e. A statement that the agreement will remain in effect without regard to the state of residency of the legal guardian; (3-15-22)

f. The procedure by which the Department will make a mandatory annual evaluation of the need for continued assistance and the amount of the assistance; and (3-15-22)

g. Guardianship assistance payments are prospective only. There will be no retroactive benefits or payments. (3-15-22)

h. In Title IV-E Relative Guardianship Assistance Agreements, the prospective relative guardian may identify a successor legal guardian to be appointed guardianship of the child due to the death or incapacitation of the relative legal guardian. (3-15-22)

**05. Termination of Guardianship Assistance.** Federally-funded or state-funded guardianship assistance benefits and cash payments are automatically terminated when: (3-15-22)

a. A court terminates the legal guardianship or removes the legal guardian; (3-15-22)

b. The child no longer resides in the home of the legal guardian, and the legal guardian no longer provides financial support for the child; (3-15-22)

c. The child has reached the age of eighteen (18) years if the guardianship was finalized prior to the child's sixteenth (16) birthday or twenty-one (21) years if finalized after the child's sixteenth (16) birthday, regardless of the child's educational status or physical or developmental delays; or (3-15-22)

d. The child marries, dies, or enters the military. (3-15-22)

e. Title IV-E relative guardianship assistance benefits do not end upon the death or incapacitation of the relative legal guardian if the relative legal guardian identified a successor legal guardian in the child's Title IV-E Relative Guardianship Assistance Agreement and the successor legal guardian assumes legal responsibility for the child. (3-15-22)

**06. Administrative Review for Guardianship Assistance.** The prospective legal guardian has twenty-eight (28) days from the date of the Department's notification of the guardianship assistance determination, to request an administrative review. The determination will be reviewed by the FACS Division Administrator, and a decision will be rendered to either affirm, reverse, or modify, the decision. The Department will notify the individual, by mail, of the FACS Division Administrator's decision, of their right to appeal, and procedures for filing an appeal according to requirements in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." (3-15-22)

### **703. FEDERALLY-FUNDED GUARDIANSHIP ASSISTANCE ELIGIBILITY, REQUIREMENTS, AND BENEFITS.**

In addition to Section 702 of these rules, the following requirements and benefits are applicable to a federally-funded guardianship assistance for an eligible child and a relative guardian. (3-15-22)

**01. Eligibility.** A child is eligible for a federally-funded guardianship if the Department determines the child meets the following: (3-15-22)

a. Is fourteen (14) years of age, or older, sometime during the consecutive six- (6) month residence with the prospective relative legal guardian as specified in Subsection 703.01.c. of this rule; (3-15-22)

b. Has been removed from their home under a voluntary placement agreement, or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child; (3-15-22)

c. Being returned home or adopted are not appropriate permanency options for the child; (3-15-22)

d. Has been eligible for Title IV-E foster care maintenance payments during at least six (6) consecutive months during which the child resided in the home of the prospective relative legal guardian who was



licensed or approved as meeting the licensure requirements as a foster family home. While it is not required that Title IV-E foster care maintenance payments have been paid on behalf of the child during the six-month timeframe, it is required the child meet all Title IV-E foster care maintenance payment eligibility criteria in the home of the fully licensed or approved relative foster parent for a consecutive six- (6) month period to be eligible for Title IV-E guardianship assistance payment with that prospective relative legal guardian; (3-15-22)

**e.** Has been consulted regarding the legal guardianship arrangement; and (3-15-22)

**f.** Has demonstrated a strong attachment to the prospective relative legal guardian, and the relative legal guardian has a strong commitment to caring permanently for the child. (3-15-22)

**g.** When a successor legal guardian has been named in the child's most recent Title IV-E Relative Guardianship Assistance Agreement, the child remains eligible for guardianship assistance benefits upon the death or incapacitation of the relative legal guardian with any cash assistance paid to the successor legal guardian. (3-15-22)

**02. Siblings of an Eligible Child.** (3-15-22)

**a.** The Department may make guardianship assistance payments in accordance with a guardianship assistance agreement on behalf of each sibling of an eligible child, under the age of twenty-one (21), who is placed with the same relative under the same legal guardianship arrangement if the Department and the relative legal guardian agree that the placement is appropriate. (3-15-22)

**b.** Nonrecurring expenses associated with obtaining legal guardianship of the eligible child's siblings are available to the extent the total cost does not exceed two thousand dollars (\$2,000). (3-15-22)

**c.** The agency is not required to place siblings with the relative legal guardian of the child at the same time with the eligible child for the siblings to qualify for a cash payment. (3-15-22)

**d.** A sibling of the eligible child does not have to meet the eligibility criteria for the relative legal guardian to receive a guardianship assistance payment or for the relative legal guardian to receive nonrecurring expenses. (3-15-22)

**03. Medicaid.** A child who is eligible for federally-funded relative guardianship assistance is eligible for Title XIX Medicaid in the state where the child resides. (3-15-22)

**04. Case Plan Requirements.** A child who is eligible for federally-funded relative guardianship assistance must have a case plan that includes: (3-15-22)

**a.** How the child meets the eligibility requirements; (3-15-22)

**b.** Steps the agency has taken to determine that return to the home or adoption is not appropriate; (3-15-22)

**c.** The efforts the agency has made to discuss adoption with the child's relative foster parent and the reason why adoption is not an option; (3-15-22)

**d.** The efforts the agency has made to discuss the legal guardianship and the guardianship assistance with the child's parent or parents, or the reason the efforts were not made; (3-15-22)

**e.** The reason why a permanent placement with a prospective relative legal guardian and receipt of a guardianship assistance payment is in the child's best interests; and (3-15-22)

**f.** If the child is not placed with siblings, a statement as to why the child is separated from their siblings. (3-15-22)

**05. Criminal History and Background Checks.** To be eligible for a federally-funded guardianship assistance payment, all prospective legal guardians and other adult members of the household must receive a criminal

history and background check clearance, according to the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." As a licensed foster parent, if the prospective relative legal guardian has already received a clearance, another check is not necessary. (3-15-22)

**06. Nonrecurring Expenses.** The Department will reimburse the cost, up to two thousand dollars (\$2,000), of nonrecurring expenses associated with obtaining a federally-funded legal guardianship for an eligible child. (3-15-22)

**704. STATE-FUNDED GUARDIANSHIP ASSISTANCE ELIGIBILITY, REQUIREMENT, AND BENEFITS.**

In addition to Section 702 of these rules, the following requirements and benefits are applicable to a state-funded guardianship assistance for an eligible child and their legal guardian. (3-15-22)

**01. Eligibility for State-Funded Guardianship Assistance.** A child is eligible for a state-funded guardianship assistance if the Department determines the child meets the following: (3-15-22)

- a.** Assistance is based on the child's identified needs; (3-15-22)
- b.** The child's parents have had their parental rights legally terminated; and (3-15-22)
- c.** There is documentation of unsuccessful efforts to place the child for adoption. (3-15-22)

**02. Limitations on State-Funded Guardianship Assistance.** State-funded guardianship assistance is subject to state appropriations and availability of state general funds. (3-15-22)

**03. Medicaid Benefits Under State-Funded Guardianship Assistance.** State-funded guardianship assistance may include Medicaid benefits for the child(ren) receiving payment. These Medicaid benefits may only be used in Idaho. If the legal guardian moves to another state, they will be required to apply for Medicaid for the child(ren) in the new state of residency. (3-15-22)

**04. Nonrecurring Expenses.** In cases where state-funded guardianship assistance is being considered, if the potential legal guardian is not able to afford the attorney and court costs to obtain legal guardianship of a child in the legal custody of the Department of Health and Welfare, financial assistance may be available from the Department. Financial assistance for legal fees may be provided regardless of the legal guardian's state of residence. (3-15-22)

**705. -- 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 will be obtained and placed in the child's permanent adoption record: (3-15-22)

- 01. Informational Forms.** Informational background forms regarding the birth mother, birth father, and the child. (3-15-22)
- 02. Hospital Records.** Hospital birth records on child. (3-15-22)
- 03. Evaluations/Assessments.** Evaluations/Assessments previously completed on child. (3-15-22)
- 04. Current Picture.** Current picture of child. (3-15-22)
- 05. Narrative Social History.** Child and family's narrative social history that addresses: (3-15-22)
  - a.** Family dynamics and history; (3-15-22)
  - b.** Child's current functioning and behaviors; (3-15-22)

- c. Interests, talents, abilities, strengths; (3-15-22)
- 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; (3-15-22)
- e. Life story, moves, reasons, key people; (3-15-22)
- f. Child's attachments to current caretakers, siblings and significant others; i.e., special friends, teachers, etc.; (3-15-22)
- g. Medical, developmental and educational needs; (3-15-22)
- h. Child's history, past experiences, and previous trauma; (3-15-22)
- i. Membership or eligibility for membership in, and social and cultural contacts with parent's tribe, if any, including names and addresses of extended family; (3-15-22)
- j. Indian child's Indian ancestry; (3-15-22)
- k. Individualized recommendations regarding each child's need for permanency; and (3-15-22)
- l. Reasons for requesting termination of parental rights. (3-15-22)

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

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

Any recommendation to the Child and Family Services Program Manager regarding the termination of parental rights will be based on the outcome of a team decision-making process and must receive written approval by the program manager before a petition may be filed. (3-15-22)

**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. (3-15-22)

**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 must 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 will be filed by legal counsel representing the Department. (3-15-22)

**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 is not 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: (3-15-22)

**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 (3-15-22)

**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. (3-15-22)

**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. (3-15-22)

**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, under Section 16-2008(2), Idaho Code. (3-15-22)

**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 will 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 will accompany the petition. Reports submitted under the Termination of Parent and Child Relationship Act based on a parent's voluntary consent will include: (3-15-22)

**01. Description of Investigation.** The circumstances of the petition and the facts determined from the investigation; and (3-15-22)

**02. Child-Related Factors.** Child related factors, including: (3-15-22)

- a.** Child's current functioning and behaviors; (3-15-22)
- b.** Medical, educational and developmental needs of the child; (3-15-22)
- c.** Child's history and past experiences; (3-15-22)
- d.** Child's identity needs; (3-15-22)
- e.** Child's interests and talents; (3-15-22)
- f.** Child's attachments to current caretakers and any absent parent; (3-15-22)
- g.** Child's current living situation; (3-15-22)
- h.** Indian child's membership or eligibility for membership in tribe(s); (3-15-22)
- i.** Indian child's contacts with tribe(s); (3-15-22)
- j.** The present circumstances, history, condition and desire of the parent whose rights are being terminated regarding plans for the child; (3-15-22)
- 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 (3-15-22)
- l.** A recommendation and reasons as to whether or not the termination of the parent and child relationship should be granted. (3-15-22)

**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 is 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: (3-15-22)

**01. Abandonment.** An infant has been abandoned; (3-15-22)

**02. Reasonable Efforts to Reunify the Family Are Not Required.** That reasonable efforts, as defined in Section 16-1610(2)(i)(iii), Idaho Code, are not required because the court determines the parent(s) has subjected a child or children to aggravated circumstances. (3-15-22)

**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 under Section 16-2008(2), Idaho Code. Reports submitted under the Termination Act based on an involuntary termination of parental rights must include: (3-15-22)

**01. Allegations.** The allegations contained in the petition. (3-15-22)

**02. Investigation.** The process of the assessment and investigation. (3-15-22)

**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. (3-15-22)

**04. Medical Information.** The information forms regarding the child, birth mother, and birth father will 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. (3-15-22)

**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, or what active efforts to prevent the breakup of the Indian family have been made. (3-15-22)

**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 under Section 16-1513, Idaho Code. (3-15-22)

**07. Planning.** Proposed plans for the child consistent with: (3-15-22)

**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 (3-15-22)

**b.** The Adoption and Safe Families Act of 1997, which prohibits states from delaying or denying cross-jurisdictional adoptive placements with an approved family, and requires individualized documentation regarding the child's needs in permanent placement. (3-15-22)

**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: (3-15-22)

**a.** Notification of the pending proceedings 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 is unknown according to Section 051 of these rules; (3-15-22)

**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; (3-15-22)

c. Notification that if the court determines indigency, the parent(s) or Indian custodian(s) have the right to court-appointed counsel; (3-15-22)

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; (3-15-22)

**09. Termination of Parent-Child Relationship.** (3-15-22)

a. A recommendation and the reasons whether or not termination of the parent and child relationship is in the best interest of the child; and (3-15-22)

b. 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. (3-15-22)

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

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

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

Each field office is responsible for compiling the names and addresses of adoptive applicant(s), along with the dates of inquiry and membership in an Indian tribe, if any. A database or register must be maintained in order to assure the orderly completion of home studies. (3-15-22)

**01. Initial Application.** Each adoptive applicant must: (3-15-22)

a. Cooperate with and allow the Department, or certified adoption professional, to determine compliance with these rules to conduct an adoption home study; (3-15-22)

b. Inform the Department, or certified adoption professional, if the applicant has previously applied to become a foster or adoptive parent, is currently licensed as a foster parent, or has been involved in the care and supervision of children or adults; (3-15-22)

c. Provide a medical statement for each applicant, signed by a qualified medical professional, within the twelve (12) months period prior to application for adoption, indicating the applicant is in such physical and mental health so as to not adversely affect either the health or quality of care of the adopted child; (3-15-22)

d. Provide the name of, and a signed release to obtain the following information about, each member of the household: (3-15-22)

i. Admission to, or release from, a facility, hospital, or institution for the treatment of an emotional, intellectual, or substance abuse issue; (3-15-22)

ii. Outpatient counseling, treatment, or therapy for an emotional, intellectual, or substance abuse issue. (3-15-22)

e. Provide three (3) satisfactory references, one (1) of which may be from a person related to the applicant. Each applicant must provide additional references upon the request of the Department or certified adoption professional; (3-15-22)

f. All applicants for adoption and other adult members of the household must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks" and IDAPA 16.06.02, "Child Care Licensing," Section 404. (3-15-22)

**02. Psychological Evaluation.** An evaluation by a psychologist or a psychiatrist can be required by the family services worker or certified adoption professional when an applicant has received or is currently receiving treatment for psychological problems or mental illness or when the family services worker, or certified adoption professional, in consultation with their supervisor, determines that there appear to be emotional problems in the family that merit further evaluation. (3-15-22)

**03. Orientation of Potential Applicants.** Initial meetings with groups of applicants, or with individual families, must be scheduled promptly by the Department or the certified adoption professional, whichever received the inquiry and initial application from the family. These initial meetings must be used to explain policies and procedures regarding adoptive placement, the kinds of children available, and the nature of the home study. (3-15-22)

**04. Denial of Application.** Following an initial interview, an applicant who does not appear to meet the Department's requirements at the time of initial application may be denied a full home study. The family will be advised why they were ineligible for a full home study and notice provided to the applicant of 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. (3-15-22)

**05. Application for Subsequent Adoptions.** Following the finalization of an adoption, a family may apply to be considered for another placement. (3-15-22)

**a.** Adoptive parents who have experienced a successful adoption and wish to reapply must complete an adoption application and financial statement, complete a Criminal History and Background Check, and submit medical reports and three (3) personal references. One (1) reference may be from a person related to the applicant. When requested by the Department, an applicant must provide additional references. (3-15-22)

**b.** The prospective adoptive family will assist in amending the original adoption study to include information concerning the acceptance and adjustment of the child previously placed in the home and their request for another placement. (3-15-22)

**c.** Prospective adoptive parent(s) applying for subsequent adoption with an agency with whom they have maintained a foster care license since their previous adoption may have the requirement for a new Criminal History and Background Check, medical reports and personal references waived by the agency. (3-15-22)

**751. -- 761. (RESERVED)**

**762. COMPLETING THE ADOPTION HOME STUDY.**

Upon application by a potential adoptive family, the family services worker or certified adoption professional will conduct the pre-placement adoptive home study and issue a recommendation. The home study must be completed prior to placement of any child for adoption in that home. (3-15-22)

**01. Interviews.** Family assessment interviews as well as individual interviews must be held with the prospective adoptive parent(s). (3-15-22)

**02. Content.** Adoption home studies for foster care, special needs, independent, relative, and step-parent adoptions must include an assessment of the following: (3-15-22)

**a.** Names, including maiden or other names used by the applicant(s); (3-15-22)

**b.** Legal verification that the person(s) adopting is at least fifteen (15) years older than the child, or twenty-five (25) years of age or older, except in cases where the adopting person is a spouse of the child's parent, must be accomplished by: (3-15-22)

**i.** Viewing a certified copy of the birth certificate filed with the Bureau of Vital Statistics; or (3-15-22)

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

license, passport, visa, alien identification cards, or naturalization papers. (3-15-22)

iii. If verifying documentation is not available, the report must indicate the date and place of birth and reason for lack of verification. (3-15-22)

c. Verification that the family has resided and maintained a dwelling within the State of Idaho for at least six (6) consecutive months prior to the filing of the petition; (3-15-22)

d. Adequacy of the family's house, property, and neighborhood for the purpose of providing adoptive care as determined by on-site observations; (3-15-22)

e. Educational background of the applicant(s); (3-15-22)

f. A statement of employment, family income, and financial resources, including access to health and life insurance and the family's management of these resources; (3-15-22)

g. Current and historical mental illness, drug or alcohol abuse, and medical conditions and how they may impact the adoptive parent(s) ability to care for an adopted child; (3-15-22)

h. Previous criminal convictions and history of child abuse and neglect; (3-15-22)

i. Family history, including childhood experience and the applicant(s) parents' methods of discipline and problem-solving; (3-15-22)

j. Verification of marriages and divorces; (3-15-22)

k. Decision-making, communication, and roles within the marital relationship, if applicable; (3-15-22)

l. The names, ages, and addresses of all biological and adopted children currently residing inside or outside the home. Information regarding the current adjustment and special needs of the applicant(s) children; (3-15-22)

m. The religious and cultural practices of the family, including their ability to nurture and validate a child's particular cultural, racial, religious, and ethnic background; (3-15-22)

n. For an Indian child, the study will also determine the prevailing social and cultural standards of the Indian community in which the parent(s) or extended family resides or maintains social and cultural ties. (3-15-22)

o. Individual and family functioning including inter-relationships with each member of the household and the family's ability to help a child integrate into the family; (3-15-22)

p. Activities, interests, and hobbies; (3-15-22)

q. Child care and parenting skills, including historical and current methods of discipline used in the home; (3-15-22)

r. Reasons for applying for adoption; (3-15-22)

s. The family's prior and current experiences with adoption, understanding of adoption, and ability to form relationships and bond with a specific child or general description of children; (3-15-22)

t. The attitudes toward adoption by immediate and extended members of the family and other persons who reside in the home; (3-15-22)

u. Specifications of the child preferred by the family that include the number of children, age, gender, race, ethnic background, social, emotional, and educational characteristics. The family's ability to accept the behavior



and personality of a specific child (if known) or general description of children and their ability to meet the child's particular educational, developmental, and psychological needs; (3-15-22)

v. Emotional stability and maturity in dealing with the needs, challenges, and related issues associated with the placement of a child into the applicant(s) home; (3-15-22)

w. The family's attitude about an adopted child's birth family including: (3-15-22)

i. Their ability to accept a child's background and help the child cope with their past; and (3-15-22)

ii. Their willingness to work with the child's family or tribe; (3-15-22)

x. Training needs of the applicant(s); and (3-15-22)

y. A recommendation regarding the family's ability to provide adoptive care to a specific child (if known) or general description of children. (3-15-22)

**763. PRE-ADOPTIVE PARENT RESPONSIBILITIES.**

The pre-adoptive parent is responsible to keep the agency or Certified Adoption Professional that completed the home study informed of any changes in the family's circumstances, or of any subsequent decision against adoption. (3-15-22)

**764. ADOPTIVE HOME STUDY.**

An adoption home study is valid for the purposes of new adoptive placement for a period of one (1) year following the date of completion. Upon completion of an adoptive placement agreement, an adoption home study remains valid for a period of two (2) years from the date of completion for the purpose of finalizing the adoption of the child(ren) for whom the adoptive placement agreement was written. (3-15-22)

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

**770. CLOSURE OF ADOPTIVE HOME STUDIES.**

Upon pre-adoptive placement of a child or children in the home of a pre-adoptive parent, the parent's adoption home study closes for the placement of an additional child or children for the purpose of adoption until a home study update is completed. (3-15-22)

**771. HOME STUDY UPDATE.**

An adoptive home study must be updated on an annual basis. A current home study is defined as a home study completed within the previous twelve (12) months. Home study updates must include the following: (3-15-22)

**01. Initial Adoption Home Study and Subsequent Home Study Updates.** All Changes to the Information Contained in the Initial Adoption Home Study and Subsequent Home Study Updates. (3-15-22)

**02. Family Functioning and Inter-Relationships.** All Information on any Changes in Family Functioning and Inter-Relationships. (3-15-22)

**03. Circumstances Adversely Impacting Child Placed for Adoption.** Any Information Regarding Circumstances Within the Family that may Adversely Impact a Child Placed for Adoption. (3-15-22)

**04. A Home Study Update Completed for the Purpose of Adoptive Placement of an Additional Child or Children in the Home.** A home study update completed for the purpose of adoptive placement of an additional child or children in the home where a child or children are already placed for adoption and that adoption has not yet finalized must include agreement for the placement of the additional child or children by the individual or agency responsible for the placement of the initial child or children, and the individual or agency responsible for the additional child or children. (3-15-22)

**772. -- 789. (RESERVED)**

**790. FOSTER PARENT ADOPTIONS.**

The procedure and requirements are the same for all adoptive applicants. Licensed foster parents with a current home study recommending them for both foster care and adoption do not need an adoption specific home study to adopt a child matching the characteristics of a child or children for whom they are approved or recommended for placement. They are eligible to be considered for adoption as part of the home study process completed to provide foster care. These requirements include compliance with the Indian Child Welfare Act, the Multi-Ethnic Placement Act of 1994 and the Interethnic Adoption Provisions of 1996. (6-5-24)T

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

**800. PLACEMENT OF THE CHILD.**

Adoptive placement of a child in the custody or guardianship of the Department will be determined as follows:

(3-15-22)

**01. Factors to be Considered in Determining Suitability of Adoptive Placements.** (3-15-22)

**a.** For an Indian child, absent good cause to the contrary, the following preferences for placement under the Indian Child Welfare Act must be followed: (3-15-22)

i. Extended family; (3-15-22)

ii. Other members of the child's tribe; or (3-15-22)

iii. Other Indian families. (3-15-22)

**b.** The primary factor in the review of a prospective adoptive family's eligibility is the ability to protect and promote the best interests of a child to be placed in their home. (3-15-22)

**c.** The Department will not delay or deny the placement of a child with an approved family that is located outside of the jurisdiction responsible for the care and planning for the child. (3-15-22)

**02. Selection of Adoptive Placement.** The adoptive placement of a child in the custody or legal guardianship of the Department will be selected using a committee process of no less than three (3) individuals and be approved by a field program manager as described by the practice standards of the Department. (3-15-22)

**03. Disclosure.** The field office must provide full confidential background information and discuss the child's history fully with the prospective adoptive parent(s) prior to the placement. The disclosure of background information must be confirmed at the time of placement by a written statement from the family services worker to the prospective adoptive family, which they will be asked to acknowledge and sign. A copy of this statement must be provided to the adoptive family and one (1) copy will be kept in the child's permanent record. (3-15-22)

**801. -- 832. (RESERVED)**

**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 must 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. (3-15-22)

**834. -- 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. (3-15-22)

**861. PROGRESS REPORTS.**

Progress reports will be prepared regularly and will be based on the family services worker's or certified adoption professional's findings. (3-15-22)

**01. Initial and Subsequent Reports.** Progress reports must be made at intervals not to exceed thirty (30) days. These reports will include the family services worker's or certified adoption professional's observation of each child and the prospective adopting parent(s), with emphasis on: (3-15-22)

- a. Special needs, special circumstances, or both, of each child at time of placement; (3-15-22)
- b. Services provided to each child and the family during the report period; (3-15-22)
- c. Services to be provided to each child and the family; (3-15-22)
- d. General appearance and adjustment of each child during the report period (may include eating, sleep patterns, responsiveness, bonding); (3-15-22)
- e. Adjustment of each child to all of the following that apply: school, daycare, and day treatment program; (3-15-22)
- f. Health and developmental progress, and medical practitioner information for each child; (3-15-22)
- g. Whether each child has been accepted for coverage on the family's medical insurance, when coverage begins, and whether there will be any limitations, exclusions, or both; (3-15-22)
- h. Family's adjustment to adoptive placement; (3-15-22)
- i. Adoption assistance negotiation; (3-15-22)
- j. Changes in family situation or circumstances; (3-15-22)
- k. Areas of concern during the report period as addressed by each child and the adoptive parent(s); (3-15-22)
- and
- l. The date of the next required six (6) month review or twelve (12) month permanency hearing. (3-15-22)

**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. (3-15-22)

**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 files a petition to adopt with the court. A copy of that petition is 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 verifies 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.

(3-15-22)

**02. Registration and Acknowledgment.** Upon receipt of the petition to adopt, the field office registers 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 will 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. (3-15-22)

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

According to Section 16-1506, Idaho Code, an investigation regarding the allegations stated in the petition and subsequent written report of findings must be filed with the court unless the investigation is waived by order of the court. The prospective adoptive family's pre-placement home study will be filed at the same time as the written report of investigation. If the family services worker, licensed child placing agency staff, or certified adoption professional is unable to complete the study within thirty (30) days, an extension of time must be requested in writing of the court, stating the reasons for the request. If the worker has reason to believe that the child may be an Indian child and the child's tribe or the Secretary of the Interior has not received written Notice of Pending Proceedings, the worker must inform the court and the petitioner's attorney and the independent agency of the need to comply with the Indian Child Welfare Act. This adoption report to the court must address the following: (3-15-22)

**01. Legal Availability of the Child.** It is the responsibility of the petitioners, through their attorney, to present documentary evidence to the court so the judge can examine it and be satisfied that the identity, birthdate, and parentage of the child are as represented in the petition. The family services worker or certified adoption professional will interview the family and any other person(s) having knowledge in the matter, review all documentary evidence presented by the petitioner(s), record the information and source of the information, noting any discrepancies. Such documentary evidence must include the following: (3-15-22)

- a.** The birth certificate of the child; (3-15-22)
- 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; (3-15-22)
- c.** If the child is an Indian child, a copy of the Notice of Pending Proceedings for Termination of Parental Rights, and the return receipts showing that the notice was received by the Indian child's parent(s) or Indian custodian(s), and the child's tribe; (3-15-22)
- 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; (3-15-22)
- e.** The death certificate of a deceased parent; (3-15-22)
- f.** Verification from the Bureau of Vital Statistics of the registry of any putative father; and (3-15-22)
- 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. (3-15-22)

- 02. Needs of the Child.** The report to the court must address the needs of the child, including but: (3-15-22)
- a.** The history of the child and the child's birth family; (3-15-22)
  - 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; (3-15-22)
  - c.** A detailed description of the circumstances that brought about the placement with the prospective

adoptive family; (3-15-22)

**d.** The state of Idaho Social, Medical, and Genetic History forms must be completed and submitted to the court, showing reasonably known or available medical and genetic information regarding both birth parents and the child, as well as reasonably known or available providers of medical care and services to birth parents and child; and (3-15-22)

**e.** The appropriateness of the prospective adoptive family for the particular child or children who are the subject of the petition. (3-15-22)

**03. Degree of Relationship of the Child to Petitioners.** In those cases where the court has ordered an investigation of petitions to adopt by relatives or step parents, the study must record such alleged relationship and specify the documentary evidence the petitioners have of that relationship. (3-15-22)

**04. Evaluation and Recommendation.** The family services worker or certified adoption professional must provide a brief summary of data presented in prior sections and the pre-placement home study, supporting the recommendation regarding the adoption. (3-15-22)

**05. Medical Information.** A copy of medical and genetic information compiled in the investigation must be made available to the prospective adoptive family by the family services worker or certified adoption professional prior to the final order of adoption. (3-15-22)

**06. Confidentiality of Information.** The family services worker must exercise caution in discussing identifying information and avoid revealing that information in the petition while attempting to secure the necessary facts for the study. (3-15-22)

**07. Financial Accounting.** A financial accounting must be approved by the court of any financial assistance given to the birth parent(s) that exceeds five hundred dollars (\$500), in accordance with Section 18-1511, Idaho Code. (3-15-22)

**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 that 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 that 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. (3-15-22)

**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 is 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). (3-15-22)

**872. -- 880. (RESERVED)**

**881. CLOSURE OF CASE.**

The family services worker must 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. (3-15-22)

**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 must be forwarded by the State Adoption Program Specialist to the Secretary of the Interior. (3-15-22)

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

Upon finalization of the adoption, the Department can offer post-legal adoption services upon request, including case management services, referrals for counseling or other supportive services. (3-15-22)

**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: (3-15-22)

**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 must 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. (3-15-22)

**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 must be made available to the parties requesting such information. (3-15-22)

**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: (3-15-22)

**01. College Degree.** A minimum of a bachelor's degree in a field deemed related to adoptions by the Department's Child and Family Services Program, such as social work, psychology, family counseling or other related behavioral science; (3-15-22)

**02. Adoption Training.** Must have completed a minimum of twenty (20) hours of training in adoption services within the last four (4) years; (3-15-22)

**03. Department Criminal History and Background Clearance.** Must complete a Department criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks," and receive a clearance; (3-15-22)

**04. License.** A current license to practice social work in the state of Idaho; (3-15-22)

**05. Experience.** A minimum of two (2) years experience as a paid full-time employee providing adoption services with a licensed private or public children's agency; (3-15-22)

**06. References.** Three (3) satisfactory references, one (1) of which must be from a previous employer for whom the applicant worked providing adoption services; (3-15-22)

**07. Insurance.** Verification of malpractice insurance that will provide coverage for the applicant's work as a certified adoption professional; and (3-15-22)

**08. Application Fee.** An application fee of one hundred dollars (\$100) to be reimbursed, less a twenty-five dollar (\$25) processing fee, in the event the application is denied. (3-15-22)

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

**01. Certification.** Certification for adoption professionals will be completed through the Division of Family and Community Services and will be effective for a period of two (2) years. (3-15-22)

**02. Types of Certification.** Certified adoption professionals may be certified for any, some, or all of the following services: (3-15-22)

- a. Adoption home studies for families seeking domestic infant adoption. (3-15-22)
- b. Adoption home studies for families seeking domestic special needs adoption. (3-15-22)
- c. Adoption home studies for families seeking step-parent or relative adoption. (3-15-22)
- d. Court ordered investigations for termination of parental rights for domestic private or independent adoptions. (3-15-22)
- e. Court reports for domestic private or independent adoptions. (3-15-22)
- f. Supervision of adoptive placements for domestic private or independent adoptions. (3-15-22)

**03. Limits of Certification.** Certified adoption professionals may not provide the following services: (3-15-22)

- a. Birth parent education or counseling. (3-15-22)
- b. Services related to international adoption. (3-15-22)

**04. Recertification.** Certified adoption professionals must apply for renewal of their certificate every two (2) years and must provide the following: (3-15-22)

- a. Documentation of ten (10) hours of adoption training taken during the previous two (2) years; (3-15-22)
- b. Verification of malpractice insurance; (3-15-22)
- c. A satisfactory recommendation from the Division of Family and Community Services designee responsible for the review of the certified adoption professional's work; (3-15-22)
- d. Satisfactory recommendations from a minimum of two (2) families for whom the certified adoption professional has provided adoption services during the previous two (2) years; and (3-15-22)
- e. A certification fee of one hundred dollars (\$100) to be reimbursed, less a twenty-five dollar (\$25) processing fee, in the event the recertification is denied. (3-15-22)

**05. Lapse of Certification.** If a certified adoption professional does not apply for recertification within two (2) years in accordance with Subsection 890.04 of this rule, this will result in a lapse of certification. Any lapse in certification will require completion of a new certified adoption professional application, documentation of ten (10) hours of adoption training during the two (2) years previous to this new application, and a new criminal history and background check. (3-15-22)

a. If the individual applying for certification has received a Department criminal history and background check clearance within three (3) years of the date of this application and has not lived outside the state of Idaho since their last criminal history and background check, all of the following must be conducted and no disqualifying crimes or appearance on a registry found: (3-15-22)

- i. A name-based background check by the Idaho State Police; (3-15-22)
- ii. A check of the Idaho Child Protection Central Registry; (3-15-22)
- iii. A check of the Idaho Adult Protection Registry; and (3-15-22)

- iv. A check of the Idaho Sexual Offender Registry. (3-15-22)

b. If the individual has lived outside the state of Idaho for any amount of time during the three (3) years since the previous Department criminal history and background check clearance was completed, they must get a new Department criminal history and background check clearance. (3-15-22)

**06. Denial of Recertification.** The Department may choose not to recertify a certified adoption professional. Notification of denial will be made by the Department by certified mail. The notice will state the specific grounds for denial of recertification. This decision may be appealed within twenty-eight (28) days of receipt of notification under the provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." Grounds for denial of recertification are one (1) or more of the following: (3-15-22)

- a. Substandard quality of work following the development of a quality improvement plan; (3-15-22)
- b. Failure to gain ten (10) additional hours of adoption continuing education required for recertification; or (3-15-22)
- c. A demonstrated pattern of negligence or incompetence in performing the duties of a certified adoption professional. (3-15-22)
- d. Failure to maintain malpractice insurance; (3-15-22)
- e. Failure to maintain a license to practice social work in the state of Idaho. This requirement does not apply to a certified adoption professional who has maintained their initial certification that occurred prior to July 1, 2012. (3-15-22)

**07. Decertification.** A certified adoption professional can be decertified by the Department at any time during a two (2) year period of certification. Notification of decertification will be made by the Department by certified mail. The notice will state the specific grounds for decertification. This decision may be appealed within twenty-eight (28) days of receipt of notification under the provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." Grounds for decertification are one (1) or more of the following: (3-15-22)

- a. Conviction for a felony; (3-15-22)
- b. Negligence in carrying out the duties of a certified adoption professional; (3-15-22)
- c. Misrepresentation of facts regarding their qualifications or the qualifications of a prospective adoptive family to adopt, or both; (3-15-22)
- d. Failure to obtain Departmental review and approval of pre-placement homestudies and court reports or placement supervision reports, or both, on more than one (1) occasion; (3-15-22)
- e. Failure to maintain malpractice insurance; (3-15-22)
- f. Suspension or loss of a license to practice social work in Idaho; or (3-15-22)
- g. Practice as a certified adoption professional outside the scope of the certification. (3-15-22)

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

A certified adoption professional may not assume a legal relationship with any child for whom they have been contracted to perform services and may not provide services for anyone with whom they have had a personal or professional relationship during the previous two (2) years. (3-15-22)

**892. MINIMUM STANDARDS FOR SERVICE.**

A certified adoption professional must meet the following service requirements: (3-15-22)

- 01. Description of Services Available.** A written description of services will be provided to families



by the certified adoption professional before any work is completed. The description of services must include information regarding Department oversight of the certified adoption professional and any limitations related to the use of the completed home study; (3-15-22)

**02. Education.** Provision of, or referral to, educational resources to adoptive applicants requesting non-relative adoption; (3-15-22)

**03. Content.** Standards for pre-placement home studies, home study updates, court reports, and supervisory reports must, at a minimum, meet the standards for adoption services established by the Department in these rules; (3-15-22)

**04. Release of Information.** A written release of information that gives consent to the exchange of information between the certified adoption professional and Child and Family Services must be obtained from a family that receives services from a certified adoption professional; and (3-15-22)

**05. Disclosure of Non-Identifying Information.** When providing adoption supervision or adoption finalization court report services, the certified adoption professional must provide disclosure of all known non-identifying information about the child, the child's birth parents, and the circumstances leading to the decision to place the child for adoption. (3-15-22)

**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 Division of Family and Community Services designee two (2) weeks prior to the required court filing date. The designee will be responsible for monitoring of quality of the services provided. (3-15-22)

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

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

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

(3-15-22)

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

The Division of Family and Community Services is responsible for: (3-15-22)

- a.** Reviewing and responding to submitted reports within five (5) business days; (3-15-22)
- b.** Initiation of corrective action plans when the documentation of a certified adoption professional is determined to be incorrect or substandard; and (3-15-22)
- c.** Dissemination of information to certified adoption professionals that may impact provided services. (3-15-22)

**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 Services, the Division will respond with a determination of the child's eligibility within forty-five (45) days.

(3-15-22)

**01. Determination of Eligibility for Title IV-E Adoption Assistance.** Child and Family 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:

(3-15-22)

**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 at the time of removal from their home.

(3-15-22)

i. If the child is removed from their home in accordance with the first judicial determination, such determination must indicate that it was contrary to the welfare of the child to remain in the home.

(3-15-22)

ii. If the child is removed from the home in accordance with 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.

(3-15-22)

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

(3-15-22)

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;

(3-15-22)

ii. The circumstances of a child's removal from their home or whether the public child welfare agency has responsibility for the child's placement and care are not relevant.

(3-15-22)

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

(3-15-22)

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 that led to the removal of the child from their home;

(3-15-22)

ii. At the time of the voluntary 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.

(3-15-22)

**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.

(3-15-22)

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

(3-15-22)

ii. The child continues to reside in the foster home with their 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.

(3-15-22)

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

(3-15-22)

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. (3-15-22)

ii. The subsequent adoption of a child may be arranged through an independent adoption, private agency, or state agency. (3-15-22)

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. (3-15-22)

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. (3-15-22)

**02. Special Needs Criteria.** The definition of special needs includes the following factors: (3-15-22)

a. The child cannot or should not be returned to the home of the parents as evidenced by an order from a court of competent jurisdiction terminating parents rights or its equivalent; and (3-15-22)

b. The child has a physical, mental, emotional, or medical disability, or is at risk of developing such disability based on the child's experience of documented physical, emotional, or sexual abuse, or neglect; or (3-15-22)

c. The child's age makes it difficult to find an adoptive home; or (3-15-22)

d. The child is being placed for adoption with at least one (1) sibling; and (3-15-22)

e. The 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 their significant emotional ties with the foster parent(s) or relative(s) who are willing to adopt the child. (3-15-22)

**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. (3-15-22)

**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. (3-15-22)

**05. International Adoptions and Adoption Assistance.** A child who meets the criteria for special needs under Subsection 900.02 of this rule, who is not a citizen or resident of the United States, and who was adopted outside of the United States or was brought into the United States for the purpose of being adopted, is not eligible to receive adoption assistance. This restriction does not prohibit adoption assistance payments for a child described in this Subsection who is placed in foster care subsequent to the failure, as determined by the State, of the initial adoption of the child by the adoptive parents. (3-15-22)

**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. (3-15-22)

**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: (3-15-22)

**01. Nonrecurring Adoption Reimbursement.** Payment for certain one-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. (3-15-22)

**a.** The expenses are defined as reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that 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. (3-15-22)

**b.** Documentation of expenses must be submitted. (3-15-22)

**c.** Costs are reimbursable up to two thousand dollars (\$2,000) per child and are entered on the Adoption Assistance Program Agreement. (3-15-22)

**d.** Children for whom the adoption has been finalized without a negotiated Nonrecurring Expenses Reimbursement Agreement are not eligible to apply for these benefits. (3-15-22)

**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. (3-15-22)

**a.** The amount must not exceed the rate for family foster care found in Subsections 483 and 484 of these rules, which would be made if the child were in a family foster home in Idaho. (3-15-22)

**b.** Payments received for treatment foster care, gifts, clothing, and school fees are not considered part of the family foster care rate. (3-15-22)

**c.** 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. (3-15-22)

**d.** For children who are currently eligible for Personal Care Services (PCS), the treatment foster care rate of up to a maximum of one thousand dollars (\$1,000) per month may be used in negotiating the adoption assistance upon prior approval of the Department's Family and Community Services (FACS) Division Administrator. (3-15-22)

**e.** Benefits will continue until the child reaches eighteen (18) if the adoption was finalized prior to the child's sixteenth (16) birthday or twenty-one (21) years if finalized after the child's sixteenth (16) birthday, based upon an annual determination of continuing need. (3-15-22)

**03. Title XIX -- Medicaid Coverage.** Any child with special needs who has an adoption assistance agreement in effect is also eligible for medical coverage. (3-15-22)

**a.** 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. (3-15-22)

**b.** 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. (3-15-22)

- c. All services reimbursed by Medicaid must be determined to be medically necessary. (3-15-22)
- d. Prior authorization may be required for some Medicaid reimbursable services. (3-15-22)
- e. Medicaid benefits are available until the child reaches the age of eighteen (18) if the adoption was finalized prior to the child's sixteenth (16) birthday or twenty-one (21) years if finalized after the child's sixteenth (16) birthday, based upon an annual determination of continuing need. (3-15-22)

**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. (3-15-22)

**911. ADOPTION ASSISTANCE PROGRAM AGREEMENT.**

A written agreement must be negotiated and fully executed between the Department and adopting family prior to the finalization of adoption and implementation of benefits. (3-15-22)

- 01. Agreement Specifications.** The agreement specifies the following: (3-15-22)
- a. The type and amount of assistance to be provided; (3-15-22)
  - b. That there will be an annual review of each agreement by the Department to evaluate the need for continued subsidy and the amount of the subsidy; (3-15-22)
  - c. That the agreed upon type and amount of assistance may be adjusted only with the concurrence of the adoptive parent(s) based upon changes in the needs of the child or changes in the circumstances of the adoptive family; (3-15-22)
  - d. That the adoptive parent(s) are required to inform the Department of any circumstances that would make them ineligible for adoption assistance payments, or eligible for adoption assistance payments in a different amount. (3-15-22)

**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 if the adoption was finalized prior to the child's sixteenth (16) birthday or twenty-one (21) years if finalized after the child's sixteenth (16) birthday regardless of the child's educational status. (3-15-22)

**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. (3-15-22)

**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. (3-15-22)

- 01. Adoption Assistance Agreement.** 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. (3-15-22)

**02. Eligibility Determination.** The Division of Family and Community Services determines eligibility based on the eligibility factors determining a special needs child that were in effect at the time of the child's adoption. (3-15-22)

**a.** 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. (3-15-22)

**b.** The adoptive family may request a fair hearing for adoption assistance IV-E eligibility determination. (3-15-22)

**i.** The determinations to be made at this hearing are whether extenuating circumstances exist or whether the family was wrongly denied eligibility, or both. (3-15-22)

**ii.** 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. (3-15-22)

**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. (3-15-22)

**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. (3-15-22)

**923. -- 999. (RESERVED)**